

**BEFORE THE  
TENNESSEE REGULATORY AUTHORITY**

In the Matter of the Application of )  
 )  
**New Edge Network, Inc.** )  
 **d/b/a New Edge Networks** )  
 )  
for a Certificate of Convenience and )  
Necessity to Provide Local Exchange )  
and Interexchange Telecommunications )  
Services Throughout the State of Tennessee )

Docket No. 99-00714

**APPLICATION**

Pursuant to the provisions of T.C.A. §§ 65-4-201, Administrative Rules Chapter 1220-4-8, and the Federal Telecommunications Act of 1996 ("Federal Act" or "Act"), 47 U.S.C. § 251 *et seq.*, New Edge Network, Inc. d/b/a New Edge Networks ("New Edge" or "Applicant") hereby files this application for a Certificate of Convenience and Necessity to provide ~~facilities-~~ ~~based and resold local exchange,~~ ~~exchange access~~ and ~~interexchange telecommunications services~~ throughout the State of Tennessee.

Consistent with the objectives of the Federal Act, the Tennessee Regulatory Authority ("TRA") has adopted a policy favoring competition in all telecommunications markets. The TRA has recognized that it is in the public interest to develop effective competition to ensure that all consumers, residential and business, have access to high quality, low-cost, and innovative telecommunications services, regardless of the chosen service provider. In support of its application, New Edge provides the following information:

## **I. DESCRIPTION OF THE APPLICANT**

1. Applicant's legal name is New Edge Network, Inc. Applicant will market its services in Tennessee under the name New Edge Networks. Applicant maintains its principal place of business at:

New Edge Network, Inc. d/b/a New Edge Networks  
3000 Columbia House Boulevard, Suite 106  
Vancouver, WA 98661  
Tel: (360) 693-9009  
Fax: (360) 693-9997

2. Correspondence or communications pertaining to this Application and subsequent legal and regulatory matters should be directed to Applicant's attorneys of record:

Eric J. Branfman, Esq.  
Michael P. Donahue, Esq.  
SWIDLER BERLIN SHEREFF FRIEDMAN, LLP  
3000 K Street, N.W., Suite 300  
Washington, D.C. 20007-5116  
(202) 424-7500 (Tel.)  
(202) 424-7645 (Fax)

With a copy to:

Stacey Waddell  
New Edge Network, Inc. d/b/a New Edge Networks  
3000 Columbia House Boulevard, Suite 106  
Vancouver, WA 98661  
Tel: (360) 693-8554  
Fax: (360) 693-9997

Correspondence or communications regarding New Edge's ongoing operations should be directed to:

~~Stacey Waddell~~

New Edge Network, Inc. d/b/a New Edge Networks  
3000 Columbia House Boulevard, Suite 106  
Vancouver, WA 98661  
Tel: (360) 693-8554  
Fax: (360) 693-9997

~~Stacey Waddell~~ is the Vice President, Carrier Relations of New Edge and is the ~~responsible for all New Edgeable~~  
~~responsible for all New Edgeable~~ ~~operating operations.~~

3. Applicant is a Delaware corporation. New Edge is authorized to transact business in the State of Tennessee. A copy of Applicant's Certificate of Incorporation and Certificate of Authority to Transact Business in Tennessee are attached as Exhibit 1.

4. New Edge's principal officers and directors are as follows:

Officers: Daniel Moffat, President and Chief Executive Officer and Treasurer  
John Dornstetter, Vice President, Sales and Marketing  
Stacey Waddell, Vice President, Carrier Relations  
Natalie Diggins, Vice President, Operations  
Steve Hensley, Vice President, Engineering and  
Chief Technical Officer  
John Howard Clowes, Secretary

Directors: Daniel Moffat  
Roger Evans  
Jay Misra  
Rich Sapero  
J. Peter Wagner

All officers and directors may be reached at:

New Edge Network, Inc. d/b/a New Edge Networks  
3000 Columbia House Boulevard, Suite 106  
Vancouver, WA 98661  
Tel: (360) 693-9009  
Fax: (360) 693-9997

5. New Edge does not currently have any corporate offices or officers located in the State of Tennessee. If New Edge opens a corporate office in the State of Tennessee in the future, New Edge will promptly notify the TRA.

The name and address of New Edge's Tennessee Registered Agent is:

CT CORPORATION SYSTEM  
530 Gay Street  
Knoxville, TN 37902

6. New Edge possesses the managerial and technical qualifications to provide its proposed telecommunications services, and to operate and maintain its facilities over which such services eventually will be deployed. A description of the backgrounds and experience of New Edge's key personnel, which demonstrate the extensive telecommunications operational and technical expertise of the Applicant, is attached hereto as Exhibit 2. \*

7. New Edge has sufficient financial capability to provide and maintain its ~~intra-state and inter-state exchange telecommunications services~~ throughout the State of Tennessee and sufficient financial capability to meet any lease or ownership obligations it may incur. New Edge will rely upon its existing personnel and technological and financial resources to provide intrastate services. In support of its application, New Edge submits, as Exhibit 3, its verified financial statements, as well as a letter from Silicon Valley Bank verifying New Edge's accounts.

New Edge is a privately-held corporation and its financial statements are not a part of the public record in any jurisdiction. New Edge is submitting this information in a separate sealed envelope and respectfully requests that it be given confidential treatment and that it not be made a part of the public record or otherwise be made available for public disclosure.

8. As a non-dominant carrier, New Edge is not required to be certificated by the Federal Communications Commission ("FCC") to provide domestic interexchange service. [REDACTED] currently [REDACTED] provide local exchange and interexchange services in the States of Montana and Washington. In addition, New Edge is seeking authority to provide local exchange and interexchange telecommunications services in all fifty states and the District of Columbia. [REDACTED] Edge has not been denied authority to provide telecommunications services in any jurisdiction.

9. Customers either will be billed directly by New Edge or charges will be billed on the Customer's telephone bill pursuant to billing and collection agreements established by New Edge with the applicable underlying telephone company. [REDACTED] [REDACTED]

10. New Edge's [REDACTED] Customer Service number for customer inquiries is [REDACTED]. [REDACTED] New Edge customer service representatives will be available, during regular business hours, at its Customer Service number for complaints and inquiries. New Edge's customer complaint procedures, deposit requirements, termination policy, and late charge policy are set forth in Sections 2.8 and 2.10 and of its proposed tariffs, which are attached hereto as Exhibits 4 and 5.

The name, address and phone number of New Edge's customer service contact is:

Stacey Waddell  
New Edge Network, Inc. d/b/a New Edge Networks  
3000 Columbia House Boulevard, Suite 106  
Vancouver, WA 98661  
Tel: (360) 693-8554  
Fax: (360) 693-9997

New Edge will handle repair and maintenance in Tennessee as follows: New Edge's customers may call Applicant's toll free number, 877-725-3343 to report service problems requiring repair or maintenance. New Edge will respond to repair and maintenance calls promptly and, where necessary, dispatch a service technician as soon as possible. Because customer satisfaction is extremely important to New Edge and to its success in the competitive marketplace, all commercially reasonable efforts will be made to address and resolve customer concerns as quickly as possible.

11. New Edge will establish internal sales and management procedures to ensure that local customers have affirmatively selected New Edge as their service provider to the extent that New Edge offers presubscription services. ~~Notwithstanding to change carrier must be requested directly~~

~~from the customer, or via the account executive in the form of a signed authorization.~~

PIC/PTC change requests from any other source will not be recognized by New Edge. New Edge internal policies regarding changes of local and long distance carries will comply with any and all policies, rules and orders of the State of Tennessee governing such carrier changes and will be consistent with the FCC's telemarketing and carrier change rules.

12. New Edge will keep its books in accordance with generally accepted accounting principles.

13. ~~New Edge will adhere to all applicable TRA rules, policies and orders governing the provision of local exchange and interexchange telecommunications services in the State of Tennessee.~~ Although New Edge will not initially provide services directly to businesses or consumers, at such time as New Edge determines to offer such services, and to the extent required by Tennessee law and TRA regulations, New Edge will provide: (1) consumer access to and support for the Tennessee Relay Center in the same manner as the incumbent local exchange carriers

("ILECs"), (2) free blocking for 900 and 976 type services; (3) Lifeline and Link-Up services to qualified customers; (4) educational discounts; and (5) support for universal service. Applicant has attached hereto a copy of its Small and Minority Owned Telecommunications Business Participation Plan as Exhibit 7.

## **II. PROPOSED SERVICES**

New Edge seeks authority to provide resold and facilities-based competitive local exchange, exchange access, and interexchange service throughout the State of Tennessee within all areas for which the Commission will grant such authority. Initially, New Edge will operate in the service area of BellSouth Telecommunications, Inc., United Telephone, and Citizens Telecom; however, New Edge seeks statewide authority so that in the future it may expand its service areas as market conditions may warrant.

New Edge seeks authority to provide services that allow its customers to originate and terminate local calls to their customers served by New Edge as well as customers served by all other authorized local exchange carriers. New Edge also requests authority to provide switched access services to interexchange carriers, which will allow New Edge's customers to originate and terminate intrastate and interstate calls to and from customers of interexchange carriers.

New Edge requests authority to offer local exchange services to customers located in all exchanges in Tennessee. Exchange services may include, but will not be limited to the following: (i) local exchange access services to single line and multi-line customers (including basic residential and business lines, direct inward/outward PBX trunk service, Centrex services and ISDN); (ii) local exchange usage services to customers of New Edge's end user access line services; and (iii) switched and special carrier access services to other common carriers. New Edge seeks

authority to provide Digital Subscriber Line services, by leasing local loops of ILECs and competitive local exchange carriers ("CLECs") currently operating in Tennessee. In addition, New Edge seeks authority, through interconnection with other carriers, to offer 911 and enhanced 911 emergency services, directory assistance and operator assisted calling, dual party relay services, and other miscellaneous services currently provided by ILECs.

New Edge also requests authority to offer interexchange services throughout the State of Tennessee, including both inbound and outbound intraLATA services. This will be accomplished through a combination of its own facilities and through the resale of the facilities of other certificated carriers. Initially, New Edge plans to offer services through a combination of purchased and leased assets. New Edge does not currently own any telecommunications facilities in the State of Tennessee.

New Edge initially plans to lease fiber optic transmission facilities and related telecommunications equipment in connection with its provision of the proposed telecommunications services in Tennessee. Specifically, New Edge plans to collocate state-of-the-art telecommunications equipment in central offices of incumbent local carriers and lease fiber-optic network infrastructure which will be able to provide trunking facilities to the ILEC and/or New Edge's Internet service provider and CLEC customers. The fiber-optic network infrastructure will be able to connect New Edge's network to major ILEC central offices and customers in each market. New Edge's network will also be able to connect to certain IXC points of presence. As each customer is obtained, service will be provisioned by leasing unbundled loops or other facilities (e.g., T1s) from the ILEC to connect the end user to New Edge's network. New Edge will also provide around-the-clock network monitoring and customer service centers.



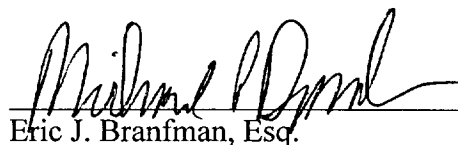
### **III. DESCRIPTION OF THE PLANT AND SYSTEM TO BE CONSTRUCTED**

As indicated, New Edge plans initially to provide its services through a combination of its own facilities and leased facilities and to expand its services to include facilities-based services as market conditions warrant. New Edge currently plans to collocate DSLAMs and related equipment at the incumbent local exchange carriers' central offices and to purchase and/or lease any additional facilities from the incumbent local exchange carrier. As a result, New Edge does not yet have details of the specific plant and system to be constructed in Tennessee. At such time as New Edge contemplates construction of facilities, New Edge will provide the TRA a description of such construction, if requested.

#### IV. CONCLUSION

For the foregoing reasons, New Edge Network, Inc. d/b/a New Edge Networks requests that the Tennessee Regulatory Authority approve its application for a Certificate of Public Convenience and Necessity to provide all forms of facilities-based and resold local exchange and interexchange telecommunications services throughout the State of Tennessee.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Michael P. Donahue", is written over a horizontal line.

Eric J. Branfman, Esq.

Michael P. Donahue, Esq.

SWIDLER BERLIN SHEREFF FRIEDMAN, LLP

3000 K Street, NW, Suite 300

Washington, D.C. 20007-5116

(202) 424-7500 (Tel.)

(202) 424-7645 (Fax)

Counsel for New Edge Network, Inc.

d/b/a New Edge Networks

Dated: September 21, 1999

## **EXHIBITS**

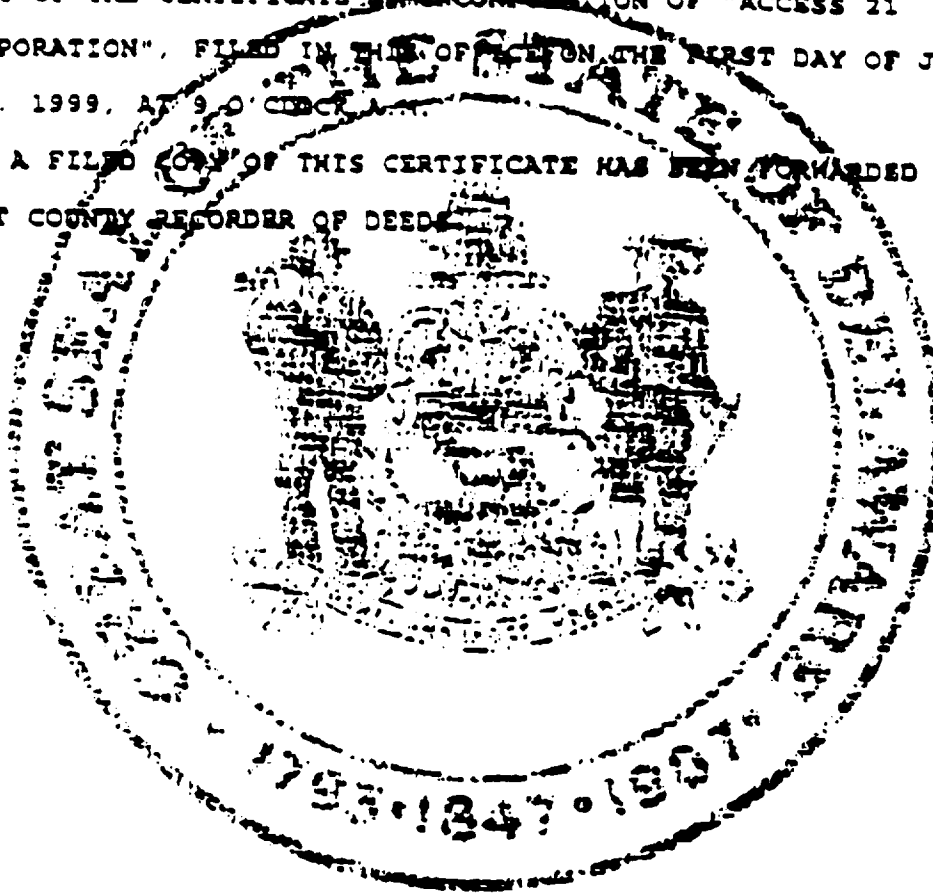
Exhibit 1	Certificate of Incorporation and Certificate of Authority to Transact Business in Tennessee
Exhibit 2	Managerial Qualifications
Exhibit 3	Financial Qualifications
Exhibit 4	Illustrative Local Tariff
Exhibit 5	Illustrative Interexchange Tariff
Exhibit 6	Sample Customer Bill
Exhibit 7	Small and Minority-Owned Telecommunications Business Participation Plan
Verification	
Certificate of Service	

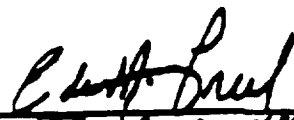
State of Delaware  
Office of the Secretary of State

PAGE 1

I, EDWARD J. FREEL, SECRETARY OF STATE OF THE STATE OF DELAWARE, DO HEREBY CERTIFY THE ATTACHED IS A TRUE AND CORRECT COPY OF THE CERTIFICATE OF INCORPORATION OF "ACCESS 21 CORPORATION", FILED IN THE OFFICE ON THE FIRST DAY OF JUNE, A.D. 1999, AT 9 O'CLOCK A.M.

A FILED COPY OF THIS CERTIFICATE HAS BEEN FORWARDED TO THE KENT COUNTY RECORDER OF DEEDS.



  
Edward J. Freel, Secretary of State

3049857 8100

991218717

AUTHENTICATION:

9778959

DATE:

06-02-99

CERTIFICATE OF INCORPORATION

OF

ACCESS 21 CORPORATION

**FIRST:** The name of the Corporation is Access 21 Corporation (hereinafter sometimes referred to as the "Corporation").

**SECOND:** The address of the registered office of the Corporation in the State of Delaware is 15 East North Street, in the City of Dover, County of Kent. The name of the registered agent at that address is Incorporating Services, Ltd.

**THIRD:** The purpose of the Corporation is to engage in any lawful act or activity for which a corporation may be organized under the General Corporation Law of Delaware.

**FOURTH:** The Corporation is authorized to issue a total of twenty-five million (25,000,000) shares of stock in one class designated as "Common Stock", per value \$0.001 per share and the Corporation is authorized to issue a total of ten million (10,000,000) shares of stock in one class designated as "Preferred Stock", per value \$0.001.

**FIFTH:** The business and affairs of the Corporation shall be managed by or under the direction of the Board of Directors. In addition to the powers and authority expressly conferred upon them by Statute or by this Certificate of Incorporation or the Bylaws of the Corporation, the directors are hereby empowered to exercise all such powers and do all such acts and things as may be exercised or done by the Corporation. Election of directors need not be by written ballot, unless the Bylaws so provide.

---

SIXTH: The Board of Directors is authorized to make, adopt, amend, alter or repeal the Bylaws of the Corporation. The stockholders shall also have power to make, adopt, amend, alter or repeal the Bylaws of the Corporation.


SEVENTH: The name and address of the incorporator is as follows:

Steve R. Gibson  
GRAY CARY WARE & FREIDENRICH LLP  
400 Hamilton Avenue  
Palo Alto, California 94301

EIGHTH: To the fullest extent permitted by the Delaware General Corporation Law, a director of this Corporation shall not be liable to the Corporation or its stockholders for monetary damages for breach of fiduciary duty as a director. Any repeal or modification of the foregoing provisions of this Article EIGHTH by the stockholders of the Corporation shall not adversely affect any right or protection of a director of the Corporation existing at the time of such repeal or modification.

NINTH: This Corporation reserves the right to amend or repeal any of the provisions contained in this Certificate of Incorporation in any manner now or hereafter permitted by law, and the rights of the stockholders of this Corporation are granted subject to this reservation.

I, THE UNDERSIGNED, being the incorporator, for the purpose of forming a corporation under the laws of the State of Delaware, do make, file and record this Certificate of Incorporation, do certify that the facts herein stated are true, and accordingly, have hereto set my hand this 1st day of June, 1999.

  
Steve R. Gibson  
Incorporator

CERTIFICATE OF AMENDMENT  
OF  
AMENDED AND RESTATED CERTIFICATE OF INCORPORATION  
OF  
ACCESS 21, INC.

Access 21, Inc. (the "Corporation"), a corporation organized and existing under the Delaware General Corporation Law ("DGCL") does hereby certify that:

FIRST: That the Board of Directors of the Corporation, by unanimous written consent, adopted a resolution proposing and declaring advisable the following amendment to the Amended and Restated Certificate of Incorporation of the Corporation:

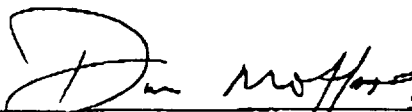
RESOLVED, that upon approval of the stockholders of the Corporation, Article I of the Certificate of Incorporation shall be amended to read as follows:

"The name of the corporation is New Edge Network."

SECOND: That in lieu of a meeting and vote of stockholders, the stockholders have given unanimous written consent to said amendment in accordance with the provisions of Section 228 of the DGCL.

THIRD: That the aforesaid amendment was duly adopted in accordance with the applicable provisions of Sections 228 and 242 of the DGCL.

IN WITNESS WHEREOF, this Certificate of Amendment has been executed on behalf of the corporation by its President on July 29, 1999.

  
\_\_\_\_\_  
Daniel G. Moffat, President

A APPLICATION FOR CERTIFICATE OF AUTHORITY FOR

New Edge Network, Inc.

RECEIVED  
FILED  
99 SEP 30 11:38  
CLERK OF STATE

To the Secretary of State of the State of Tennessee:

Pursuant to the provisions of Section 48-25-103 of the Tennessee Business Corporation Act, the undersigned corporation hereby applies for a certificate of authority to transact business in the State of Tennessee, and for that purpose sets forth:

1. The name of the corporation is New Edge Network, Inc.

If different, the name under which the certificate of authority is to be obtained is \_\_\_\_\_

[NOTE: The Secretary of State of the State of Tennessee may not issue a certificate of authority to a foreign corporation for profit if its name does not comply with the requirements of Section 48-14-101 of the Tennessee Business Corporation Act. If obtaining a certificate of authority under an assumed corporate name, an application must be filed pursuant to Section 48-14-101(d).]

2. The state or country under whose law it is incorporated is Delaware

3. The date of its incorporation is June 1, 1999 (must be month, day, and year), and the period of duration, if other than perpetual, is \_\_\_\_\_

4. The complete street address (including zip code) of its principal office is

3000 Columbia House Blvd., Suite 106, Vancouver,	WA	98661
Street	City	State/Country
		Zip Code

5. The complete street address (including the county and the zip code) of its registered office in this state is

c/o C T CORPORATION SYSTEM, 530 Gay Street, Knoxville, Tennessee, Knox 37902
Street
City/State
County
Zip Code

The name of its registered agent at that office is  
C T CORPORATION SYSTEM

6. The names and complete business addresses (including zip code) of its current officers are: (Attach separate sheet if necessary.)

(SEE ATTACHED RIDER)

7. The names and complete business addresses (including zip code) of its current board of directors are: (Attach separate sheet if necessary.)

(SEE ATTACHED RIDER)

8. The corporation is a corporation for profit.

9. If the document is not to be effective upon filing by the Secretary of State, the delayed effective date/time is

\_\_\_\_\_, 19\_\_\_\_ (date), \_\_\_\_\_ (time).

[NOTE: A delayed effective date shall not be later than the 90th day after the date this document is filed by the Secretary of State.]

[NOTE: This application must be accompanied by a certificate of existence (or a document of similar import) duly authenticated by the Secretary of State or other official having custody of corporate records in the state or country under whose law it is incorporated. The certificate shall not bear a date of more than one (1) month prior to the date the application is filed in this state.]

August 25, 1999  
Signature Date

\_\_\_\_\_  
President  
Signer's Capacity

New Edge Network, Inc.  
Name of Corporation

[Signature]  
Signature

Daniel G. Moffat  
Named (typed or printed)





**NEW EDGE NETWORK, INC.**RECEIVED  
SECRETARY OF STATE

99 SEP -3 AM 10:38

RILEY DARRHILL  
SECRETARY OF STATE**Corporate Officer**

Daniel G. Moffat  
President, Vice-President, Treasurer  
New Edge Network, Inc.  
3000 Columbia House Blvd., Suite 106  
Vancouver, Washington 98661

Howard Clowes - Secretary  
Gray, Cary, Ware and Freidenrich  
400 Hamilton Ave.  
Palo Alto, California 94301

**Board of Directors**

Roger Evans - General Partner  
Greylock  
755 Page Mill Road  
Building A, Suite 100  
Palo Alto, California 94304-1018

Jay Misra  
31 River Court # 2603  
Jersey City, New Jersey 07310

Daniel G. Moffat - President & CEO  
New Edge Network, Inc.  
3000 Columbia House Blvd., Suite 106  
Vancouver, Washington 98661

Rich Shapero - General Partner  
Crosspoint Venture Partners  
2925 Woodside Road  
Woodside, California 94062

J. Peter Wagner - General Partner  
Accel Partners  
428 University Avenue  
Palo Alto, California 94301

State of Delaware  
Office of the Secretary of State

PAGE 1  
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SECRETARY OF STATE  
99 SEP -3 AM 10:38

RILEY DARNELL  
SECRETARY OF STATE

I, EDWARD J. FREEL, SECRETARY OF STATE OF THE STATE OF  
DELAWARE, DO HEREBY CERTIFY "NEW EDGE NETWORK, INC." IS DULY  
INCORPORATED UNDER THE LAWS OF THE STATE OF DELAWARE AND IS IN  
GOOD STANDING AND HAS A LEGAL CORPORATE EXISTENCE SO FAR AS THE  
RECORDS OF THIS OFFICE SHOW, AS OF THE FIRST DAY OF SEPTEMBER,  
A.D. 1999.

AND I DO HEREBY FURTHER CERTIFY THAT THE FRANCHISE TAXES  
HAVE NOT BEEN ASSESSED TO DATE.



3049857 8300  
991365156

  
Edward J. Freel, Secretary of State

AUTHENTICATION:

DATE:

9949560

09-01-99

**Secretary of State**

**Corporations Section**

**James K. Polk Building, Suite 1800**

**Nashville, Tennessee 37243-0306**

DATE: 09/03/99

REQUEST NUMBER: 3738-0417

TELEPHONE CONTACT: (615) 741-2286

FILE DATE/TIME: 09/03/99 1038

EFFECTIVE DATE/TIME:

CONTROL NUMBER: 0376546

TO:

NEW EDGE NETWORK, INC.

3000 COLUMBIA HOUSE

BLVD., SUITE 106

VANCOUVER, WA 98661

RE:

NEW EDGE NETWORKS

APPLICATION FOR REGISTRATION OF ASSUMED CORPORATE  
NAME

THIS WILL ACKNOWLEDGE THE FILING OF THE ATTACHED ASSUMED NAME  
REGISTRATION FOR A FIVE YEAR PERIOD BEGINNING WITH AN EFFECTIVE DATE AS  
INDICATED ABOVE.

THE CORPORATION MAY RENEW THE RIGHT TO USE THIS NAME WITHIN TWO  
(2) MONTHS PRECEDING THE EXPIRATION OF SUCH RIGHT, FOR A PERIOD OF FIVE (5)  
YEARS, BY FILING AN APPLICATION WITH THE SECRETARY OF STATE.

WHEN CORRESPONDING WITH THIS OFFICE OR SUBMITTING DOCUMENTS FOR  
FILING, PLEASE REFER TO THE CORPORATION CONTROL NUMBER GIVEN ABOVE.

---

FOR: APPLICATION FOR REGISTRATION OF ASSUMED CORPORATE      ON DATE: 09/03/99  
NAME

FROM:  
C T CORPORATION SYSTEM (HOUSTON, TX.)  
811 DALLAS AVE

HOUSTON, TX 77002-0000

RECEIVED:      FEES  
\$20.00      \$0.00  
TOTAL PAYMENT RECEIVED:      \$20.00

RECEIPT NUMBER: 00002543702  
ACCOUNT NUMBER: 00000023



*Riley C. Darnell*

RILEY C. DARNELL  
SECRETARY OF STATE

APPLICATION FOR REGISTRATION OF ASSUMED CORPORATE NAME

RECEIVED  
SECRETARY OF STATE

99 SEP -3 AM 10:39  
**FILED**

Pursuant to the provisions of Section 48-14-101(d) of the Tennessee Business Corporation Act or Section 48-54-101(d) of the Tennessee Nonprofit Corporation Act, the undersigned corporation hereby submits this application:

1. The true name of the corporation is New Edge Network, Inc.

2. The state or country of incorporation is Delaware

3. The corporation intends to transact business in Tennessee under an assumed corporate name.

4. The assumed corporate name the corporation proposes to use is

New Edge Networks

[NOTE: The assumed corporate name must meet the requirements of Section 48-14-101 of the Tennessee Business Corporation Act or Section 48-54-101 of the Tennessee Nonprofit Corporation Act.]

August 25, 1999  
Signature Date

\_\_\_\_\_  
President

\_\_\_\_\_  
Signer's Capacity

New Edge Network, Inc.

\_\_\_\_\_  
Name of Corporation

Daniel G. Moffat  
Signature

Daniel G. Moffat

\_\_\_\_\_  
Name (typed or printed)

## **Exhibit 2**

### **Managerial Qualifications**

## Managerial Experience and Qualifications

### **Dan Moffat - President/CEO**

**Years of Telecommunications Experience - 22 years**

Former Chief Marketing Office/SVP Sales, Marketing and Service for GST Telecom. President of GST Whole Earth Networks responsible for Internet and data services. Founder and Principal of the telecom strategy consulting firm Access Value Services later sold to Cathey, Hutton and Associates. Director of Marketing for Pacific Telecom. VP Marketing/Sales for US Intelco Networks (Illuminet). Regional Sales Manager for IBM/ROLM. Director of Operations for US West - Netch.

**BS Finance** - Cal State Chico, **MBA** - Santa Clara University, MS Telecom - Golden Gate University.

### **Natalie Diggins - VP Operations**

**Years of Telecommunications Experience - 10 years**

Formerly VP Operations for GST Whole Earth Networks the Internet and Data Wide Area Networking group for GST Telecom a super-regional Competitive Local Exchange Carrier (CLEC). Responsible for systems administration, provisioning, billing, network monitoring and customer service. General Manager for Call America - Internet Services. Former President of the Central Coast Software and Technology Association. Founding member of Women in Telecommunications.

**Cal State Long Beach - Architectural Engineering**

### **John Dornstetter - VP Sales/Marketing**

**Years of Telecommunications Experience - 10 years**

Former VP Sales and Regional Manager for GST Telecom responsible for government sales, alternate channel marketing and major accounts. VP Sales TACAN Corporation a fiber optical component manufacturer. Semi-conductor industry background.

**B.S. Naval Science/Naval Aviator - US Naval Academy. MBA Pepperdine University.**

### **Steve Hensley - Chief Technical Officer/VP Operations**

**Years of Telecommunications Experience - 21 years**

Former VP Engineering GST Telecom with overall responsibility for fiber, local exchange and data services. Prior to this, VP of Data Engineering - GST Telecom responsible for Internet, Asynchronous Transfer Mode (ATM) and Frame Relay engineering.

Manager Data Engineering Pacific Telecom responsible for Frame Relay and other data services.  
Regional Manager for Alaska for Motorola Corp.

BS EE Washington State.

### **Stacey Waddell - VP Carrier Relations/Program Management**

Years of Telecommunications Experience - 10 years

Most recently Senior Director for Network Deployment - WinStar Telecommunications a national CLEC. Responsible for central office deployment including construction, installation and interconnection arrangements. Director Business Markets for Electric Lightwave Inc. a super regional CLEC. Responsible for management of wholesale and retail telecom products. American Pioneer Telephone - Financial and IS Manager

BS Finance, University of Central Florida.

### **John Howard Clowes - Secretary**

Howard Clowes is a partner in the corporate and securities practice group of the law firm of Gray Cary Ware Freidenrich LLP, where he specializes in finance, mergers and acquisitions, joint ventures and international corporate transactions. Participated in several mergers and acquisitions, including the \$8.3 billion agreement by 3Com Corporation to acquire U.S. Robotics Corporation, the \$2.5 billion joint venture between Mosel Vitelic, Inc. and Siemens, the \$250 million acquisition by 3Com Corporation of OnStream Networks as well as numerous other acquisitions, corporate partnering and M&A transactions for clients including Trident Microsystems, Inc., NetManage, Inc., Mosel Vitelic, Inc., Maxtor Corporation, ENACT Health Management Systems, Ontogen Corporation, and Chips & Technologies.

J.D. - University of California, Berkeley, Boalt Hall, B.A. - University of California at Santa Barbara.

### **Exhibit 3**

#### **Financial Qualifications**

**PRIVILEGED AND CONFIDENTIAL INFORMATION  
PLEASE DO NOT DISCLOSE TO THE PUBLIC  
WITHOUT PRIOR WRITTEN PERMISSION OF  
NEW EDGE NETWORK, INC. D/B/A NEW EDGE NETWORKS**



## **Exhibit 4**

### **Illustrative Local Tariff**

**TARIFF SCHEDULE GOVERNING  
THE PROVISION OF  
LOCAL COMMUNICATIONS SERVICES  
FURNISHED BY  
NEW EDGE NETWORK, INC.  
d/b/a NEW EDGE NETWORKS  
WITHIN THE  
STATE OF TENNESSEE**

---

Issued:

Effective:

By:

Daniel Moffat, President  
New Edge Network, Inc. d/b/a New Edge Networks  
3000 Columbia House Boulevard, Ste. 106  
Vancouver, Washington 98661

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CHECK SHEET

<u>Sheet No.</u>	<u>Revision</u>	<u>Sheet No.</u>	<u>Revision</u>
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Issued:

Effective:

By:

Daniel Moffat, President  
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EXPLANATION OF SYMBOLS

- (C) To signify a changed listing, rule or condition which may affect rates or charges.
- (D) To signify discontinued material, including but not limited to a listing, rate, rule or condition.
- (I) To signify an increase.
- (M) To signify material relocated from or to another part of tariff schedule with no change in text, rate, rule, or condition.
- (N) To signify new material including a listing, rate, rule, or condition.
- (R) To signify a reduction.
- (T) To signify a change in wording of text but no change in rate, rule, or condition.
- (Z) To signify a Correction

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CONCURRING CARRIERS

None.

CONNECTING CARRIERS

None.

OTHER PARTICIPATING CARRIERS

None.

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DEFINITIONS

Advance Payment: Part or all of a payment required before the start of Service.

Authority: Tennessee Regulatory Authority

Company: New Edge Network Inc. d/b/a New Edge Networks, the issuer of this tariff.

Customer: The person, firm or corporation which orders Service and is responsible for the payment of charges and compliance with the terms and conditions of this tariff.

Dedicated: A facility or equipment system or subsystem set aside for the sole use of a specific Customer or End User.

DSL: Digital Subscriber Line.

End Office: The switching system office or serving wire center where loops are terminated for purposes of interconnection to each other and/or to trunks.

End User: A person, firm or corporation who is designated by the Customer as a user of Company's Service furnished to the Customer. The End User must be specifically identified in the Application for Service.

End User Premises Equipment: Equipment provided by the Customer, the End User, or any party other than the Company that is located on the End User's premises and is connected to the Company's network.

FCC: Federal Communications Commission.

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DEFINITIONS (Continued)

**Individual Case Basis:** A service arrangement in which the regulations, rates and charges are developed based on the specific circumstances of the Customer and at the Company's sole discretion.

**Kbps:** Kilobits per second, denotes thousands of bits per second.

**Mbps:** Megabits per second, denotes millions of bits per second.

**Origination Point:** The point of demarcation between the Company's facilities and those of the End User.

**Premises:** The space occupied by a Customer or End User in a building or buildings or contiguous property.

**Recurring Charges:** The monthly charges to the Customer for Services, facilities and equipment, which continues for the agreed-upon duration of the Service.

**Services:** The services, or combination thereof, offered by the Company and contained in this Tariff.

**Service Order:** The request for Company Services submitted by the Customer in the format devised by the Company. The submission of a Service Order by the Customer and confirmation thereof by the Company initiates the respective obligations of the parties as set forth therein and pursuant to this tariff.

**Special Facilities:** Any facilities, goods, supplies, products, equipment, fixtures or other installation specifically installed or constructed for Customer by Company pursuant to a negotiated agreement between Company and Customer.

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DEFINITIONS (Continued)

**Term Agreement:** An agreement between the Company and a Customer for the delivery of Services for a stated minimum duration.

**Termination Point:** The demarcation point between Company's facilities and the Customer's facilities.

**Transmission Speed:** Transmission speed or rate, in bits per second (bps), as agreed to by Company and Customer.

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SECTION I. APPLICATION OF TARIFF

This tariff sets forth rules applicable to the provision of interstate high speed digital access and high capacity private line Services using a variety of digital transmission technologies.

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SECTION 2. RULES AND REGULATIONS

2.1 Undertaking of the Company

The Company undertakes to furnish Services in accordance with the terms and conditions set forth in this tariff.

2.2 Terms and Conditions

The Company shall have no responsibility with respect to billings, charges, or disputes related to Services used by the Customer which are not included in the Services herein including, without limitation, any local, regional or long distance services not offered by the Company. The Customer shall be fully responsible for the payment of any bills for such services and for the resolution of any disputed or discrepancies with the appropriate service provider.

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SECTION 2. RULES AND REGULATIONS

2.3 Application for Service

Customers desiring to obtain Service must submit Service Orders in the form and format specified by Company.

2.3.1 Cancellation of Application for Service

If a Customer cancels a Service Order after Company has commenced installation of Service, a cancellation charge may apply.

2.3.2 Cancellation of Service

Subject to cancellation charges referenced herein, the Customer may have Service discontinued upon thirty (30) days' written notice to the Company. The Company shall hold the Customer responsible for payment of all bills for Service furnished until the effective cancellation of Service. As specified in 2.10.2 below, a termination charge may apply to early cancellation of a Term Agreement.

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SECTION 2. RULES AND REGULATIONS

2.4 Assignment or Transfer

All Service provided under this tariff is directly or indirectly controlled by the Company and the Customer may not transfer or assign the use of Service (except in the case of a merger or sale of substantially all the assets of Customer) without the express prior written consent of the Company, and then only when such transfer or assignment can be accomplished without interruption of the use or change in the location of Service. All terms and conditions contained in this tariff shall apply to any and all such transferees or assignees. The Customer shall, unless otherwise expressly agreed by the Company in writing, remain liable for the payment of all charges due under this tariff or any applicable agreements.

2.5 Contracts

The Company may also offer intrastate exchange access services on a non-tariffed, contractual basis. The terms and conditions of this tariff do not apply to such contractual services, except to the extent expressly incorporated into a contract. The Company will file all such contracts with the Tennessee Regulatory Authority, pursuant to Authority rules.

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SECTION 2. RULES AND REGULATIONS

2.6 Deposits

- A. The Company may, in order to safeguard its interests, require any Customer to make a deposit prior to or at any time after Service is provided to the Customer, to be held by the Company as a guarantee of the payment of rates and charges.
- B. A deposit may not exceed: (i) the actual or estimated rates and charges, including non-recurring charges, for the Service for a two month period; or (ii) the charges that would apply for the minimum period for a Service which has a minimum term of more than one month, plus any applicable termination charge. The fact that a deposit has been made in no way relieves the customer from complying with the Company's requirement as to the prompt payment of bills.
- C. At such time as the provision of the Service to the Customer is terminated, the amount of the deposit will be credited to the Customer's account and any credit balance which may remain will be refunded.
- D. In case of a cash deposit, for the period the deposit is held by the Company, simple annual interest will be applied to the deposit for the number of days from the date the Customer deposit is received by the Company to and including the date such deposit is credited to the Customer's account or the date the deposit is refunded by the Company.
- E. If at any time the amount of a deposit is less than required to meet the requirements specified above, the Customer shall be required to pay an additional deposit upon request.

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SECTION 2. RULES AND REGULATIONS

2.7 Notices

Any notice Company may give to a Customer shall be deemed properly given when delivered, if delivered in person, or when sent via facsimile, electronic mail or when deposited with the U.S. Postal Service or other express delivery service.

2.8 Payment and Rendering of Bills

- A. The Company shall bill all charges incurred by and credits due to the Customer. The Customer may choose to receive bills in either paper or electronic format. Such bills are due within thirty (30) days after the date of issuance thereof, regardless of the media utilized. The Company shall bill in advance charges for all Services to be provided during the ensuing billing period except for charges associated with Service usage. Adjustments for the quantities of Service established or discontinued in any billing period beyond the minimum period will be prorated to the number of days based on a 30 day month. The Company will, upon request and if available, furnish such detailed information as may reasonably be required for verification of the bill.
- B. The Company shall bill for all Services rendered within 90 days of when those Services are provided.

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SECTION 2. RULES AND REGULATIONS

2.8 Payment and Rendering of Bills (Continued)

- C. All bills for Service provided to the customer by the Company are due thirty (30) days from the date of issuance of the bill. If any portion of the payment is received by the Company after the payment due date as set forth above, or if any portion of the payment is received by the Company in funds which are not immediately available to the Company, then a late payment penalty shall be due the Company. The late payment penalty shall be a portion of the payment not received by the payment due date times a late factor. The late factor shall be 1.5% per month (0.049315% per day) or 18% annually, or the highest rate allowed by law, whichever is the lesser. The late factor will be applied for the number of days from the payment due date to and including the date that the Customer makes the late payment funds immediately available to the Company.
- D. Customer shall be responsible for payment of all sales, use, gross receipts, excise, access, bypass, franchise or other local, state and Federal taxes, fees, charges, or surcharges, however designated, imposed on or based upon the provision, sale or use of the Services rendered by Company, (excepting Company's income taxes). Such taxes shall be separately stated on the Customer's invoice.

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SECTION 2. RULES AND REGULATIONS

2.9 Disputed Bills

In the event that a billing dispute occurs concerning any charges billed to the Customer by the Company, the Customer must pay the undisputed portion of the invoice in full and submit a documented claim for the disputed amount. The Customer shall submit all documentation as may reasonably be required to support the claim. All claims must be submitted to the Company within 60 days of receipt of billing for those Services. If the Customer does not submit a claim as stated above, the Customer waives all rights to filing a claim thereafter. Unless disputed, the invoice shall be deemed to be correct and payable in full by Customer. If the Customer is unable to resolve any dispute with the Company, then Customer may file a complaint with the Authority.

If the dispute is resolved in favor of the Customer and the Customer has withheld the disputed amount, no interest or penalties will apply.

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SECTION 2. RULES AND REGULATIONS

2.10 Discontinuance and Restoration of Service

2.10.1 Cancellation by the Company

- A. For Nonpayment: The Company may, upon ten (10) days written notice to the Customer, discontinue Service or cancel an application for Service without incurring any liability when there is an unpaid balance for Service that is overdue.
- B. For Returned Checks: A Customer whose check or draft is returned unpaid for any reason shall be subject to discontinuance of Service in the same manner as provided for nonpayment of overdue charges.
- C. For any violation of law or rules: A Customer shall be subject to discontinuance of Service, without notice, for any violation of any law, rule, regulation or policy of any government authority having jurisdiction over Service, or by reason of any order or decision of a court or other government authority having jurisdiction which prohibits the Company from furnishing such Service.
- D. For the Company to comply with any order or request of any governmental authority having jurisdiction: The Customer shall be subject to discontinuance of Service, without notice, for the Company to comply with any order or request of any governmental authority having jurisdiction.

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SECTION 2. RULES AND REGULATIONS

2.10 Discontinuance and Restoration of Service (cont'd)

2.10.1 Cancellation by the Company (cont'd)

- E. For Other Causes: A Customer shall be subject to discontinuance of Service, without notice, in the event of suspected fraud or other unlawful use of the Service, or fraud or misrepresentation in any submission of information required in a Service Order or any other information submitted to Company.
- F. For any Customer filing of bankruptcy or reorganization or failing to discharge an involuntary petition therefor within the time permitted by law: The Company may immediately discontinue or suspend Service under this tariff without incurring any liability.

2.10.2 Cancellation of Term Agreement

Upon the cancellation of Service provided under a Term Agreement, an early termination charge may apply.

2.10.3 Resumption of Service

If Service has been discontinued for nonpayment or as otherwise provided herein and the Customer wishes it continued, Service shall, at the Company's discretion, be restored when all past due amounts are paid or the event giving rise to the discontinuance (if other than nonpayment) is corrected to the satisfaction of Company in Company's sole and absolute discretion and Customer pays a deposit at Company's discretion. All applicable nonrecurring charges shall apply when Services are restored.

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SECTION 2. RULES AND REGULATIONS

2.11 Information to be Provided to the Public

The Company will use reasonable efforts to advise Customers who may be affected of new, revised or optional rates applicable to their Service.

2.12 [Intentionally left blank]

2.13 Credit Allowance for Interruptions

A credit allowance will be given on a per line basis for service interruptions, defined as any period during which any line subscribed to by the Customer hereunder and/or, if applicable, Company-provided equipment attached thereto is out of service, except as specified below. Out of service conditions are defined as complete loss of data transmission capability. Credit allowances, if any, shall be deducted from the charges payable by the Customer hereunder and shall be expressly indicated on the next bill to the Customer. An interruption period begins the earlier of when the Customer reports a malfunction in Service to the Company or Company becomes independently aware of such malfunction. A malfunction period ends when the affected line and/or associated equipment is fully operative.

A. Credit allowances do not apply to interruptions:

- 1) caused by the Customer, any End User or any third party;
- 2) due to failure of power or equipment provided by the Customer or others;
- 3) during any period in which the Company is not given access to the Premises;

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**SECTION 2. RULES AND REGULATIONS****2.13 Credit Allowance for Interruptions (Continued)**

- 4) due to scheduled maintenance and repair; or
- 5) due to Acts of God or other events listed in section 2.19(C) below.

**B. Interruption of Twenty-Four (24) Hour or Less - Portion of Daily Per-Line Charge**

<u>Length of Service Interruption</u>	<u>Credit</u>
-Less than 4 hours	None
-4 hours up to but not including 8 hours	1/3 of day
-8 hours up to but not including 12 hours	1/2 of day
-12 hours up to but not including 16 hours	2/3 of day
-16 hours up to 24 hours	one day

Two or more Service interruptions of the same type to the same line/equipment of two (2) hours or more during any one twenty-four (24) hour period shall be considered as one interruption. In no event shall such interruption credits for any one line/equipment exceed one (1) day's fixed recurring charges for such line/equipment in any twenty-four (24) hour period.

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SECTION 2. RULES AND REGULATIONS

2.13 Credit Allowance for Interruptions (Continued)

C. Interruptions over Twenty-Four (24) Hours

Service interruptions over twenty-four (24) hours will be credited four (4) hours for each four (4) hour period or fraction thereof. No more than one (1) full day's credit will be allowed for any period of twenty-four hours.

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SECTION 2. RULES AND REGULATIONS

2.14 Service Connections

- A. All Service along the facilities between the point identified as the Company's origination point and the point identified as the Company's termination point will be furnished by the Company, its agents or contractors.
- B. Customer shall allow Company continuous access and right-of-way to both Customer and End User Premises to the extent reasonably determined by the Company to be appropriate to the provision and maintenance of Services, equipment, facilities and systems relating to this tariff.
- C. The Company may undertake to use reasonable efforts to make available Services to a Customer on or before a particular date, subject to the provisions of and compliance by the Customer with the regulations contained in this tariff. The Company does not guarantee availability by any such date and shall not be liable for any delays in commencing Service to any Customer.

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SECTION 2. RULES AND REGULATIONS

2.14 Service Connections (cont'd)

- D. The Company undertakes to use reasonable efforts to maintain only the facilities and equipment that it furnishes to the Customer or End User. Neither the Customer or the End User may, nor permit others to, rearrange, disconnect, remove, attempt to repair, or otherwise tamper with any of the facilities or equipment installed by the Company, except upon the written consent of the Company.
- E. Title to all facilities (except such equipment and/or facilities as are sold to or independently provided by a Customer or End User), including terminal equipment, shall remain with the Company. The operating personnel and the electric power consumed by such equipment on the Premises of Customer or End User shall be provided by and maintained at the expense of the Customer.

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SECTION 2. RULES AND REGULATIONS

2.14 Service Connections (Continued)

- F. Equipment the Company provides or installs at the Customer's or End User's Premises for use in connection with the Services shall not be used for any purpose other than that for which the Company provided it.
- G. The Company shall not be responsible for the operation or maintenance of any Customer or End User provided communications equipment. The Company may install certain Customer or End User provided communications equipment upon installation of Service; unless otherwise agreed by the Company in writing, Company shall not thereafter be responsible for the operation or maintenance of such equipment. Where such equipment is connected to the facilities furnished pursuant to this tariff, the responsibility of the Company shall be limited to the furnishing of facilities offered under this tariff and to the maintenance and operation of such facilities; subject to this responsibility the Company shall not be responsible for:
  - 1) The proper origination of signals by Customer provided equipment or for the quality, or defects in, such signals; or
  - 2) The reception of signals by Customer provided equipment.
- H. The Customer shall be responsible for the payment of service charges for visits by the Company's agents or employees to the Premises when the Service difficulty or trouble report results from the improper or inappropriate use of equipment or facilities by the Customer or End User.

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SECTION 2. RULES AND REGULATIONS

2.14 Service Connections (Continued)

- I. In the event Company places Company equipment on Customers' premises for the purpose of furnishing service under this agreement, unless otherwise stipulated, Company is solely responsible for operating and maintaining such equipment. In the event that Customer attempts to operate or maintain any such equipment without first obtaining Company's written approval, in addition to any other remedies of Company for a breach by Customer of Customer's obligations hereunder, Customer shall pay Company for any damage to Company's equipment caused or related to such unauthorized operation or maintenance of Company's equipment upon receipt by Customer of a Company invoice therefor. In no event shall Company be liable to Customer, End User or any other person for interruption of the Service or for any other loss, cost or damage caused or related to Customer's improper or inappropriate use of Company-provided equipment.
- J. Customer agrees to allow Company to remove all Company-provided equipment from Customer or End User's premises:
  - 1 ) upon termination, interruption or suspension of the Service in connection with which the equipment was used; and
  - 2) for repair, replacement or otherwise as Company may determine is necessary or desirable.
- K. At the time of such removal, such equipment shall be in the same condition as when delivered to Customer or installed in Customer or End User's premises, normal wear and tear only excepted. Customer shall reimburse Company for the unamortized cost of any such equipment in the event the foregoing conditions are not met.

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SECTION 2. RULES AND REGULATIONS

2.14 Service Connections (Continued)

- L. The Customer or End User is responsible for ensuring that Customer- or End User-provided equipment connected to Company equipment and facilities is compatible with such Company equipment and facilities. The magnitude and character of the voltages and currents impressed on Company-provided equipment and wiring by the connection, operation, or maintenance of such equipment and wiring shall be such as not to cause damage to the Company provided equipment and wiring or injury to the Company's employees or to other persons. Customer will submit to Company a complete manufacturer's specification sheet for each item of equipment that is not provided by the Company and which shall be attached to the Company's facilities. The Company shall approve the use of such item(s) of equipment unless such item is technically incompatible with Company's facilities. Any additional protective equipment required to prevent such damage or injury shall be provided by the Company at the Customer's expense.
- M. Any special interface equipment necessary to achieve compatibility between the facilities and equipment of the Company used for furnishing Service, and the channels, facilities, or equipment of others shall be provided at the Customer's expense.

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SECTION 2. RULES AND REGULATIONS

2.15 Limitation of Service Equipment or Facilities

- A. Service is offered subject to the provisions of this tariff and the availability of the necessary facilities and/or equipment, and is limited to the ongoing availability and capacity of the Customer's facilities as well as the facilities the Company may require from other carriers to furnish Service. The Company may decline Service Orders to or from a location where, in the Company's sole discretion, the necessary facilities or equipment are not available. The Company may discontinue furnishing Service in accordance with the terms of this tariff.
- B. The Company reserves the right to discontinue or limit Service when necessitated by conditions beyond its control, or when Service is used in violation of provisions of this tariff or the law.
- C. The Company does not undertake to transmit messages, but offers the use of its Service when available, and, as more fully set forth elsewhere in this tariff, shall not be liable for errors in transmission or for failure to establish connections.
- D. The Company reserves the right to discontinue Service, limit Service, or to impose requirements as required to meet changing regulatory or statutory rules and standards, or when such rules and standards have an adverse material affect on the business or economic feasibility of providing Service, as determined by the Company in its reasonable judgment.
- E. The furnishing of Service under this tariff is subject to the availability on a continuing basis of all the necessary facilities and is limited to the capacity of the Company's facilities, as well as facilities the Company may obtain from other carriers to furnish Service from time to time as required at the sole discretion of the Company.

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SECTION 2. RULES AND REGULATIONS

2.16 Prohibited Uses

- A. The Services of the Company shall not be used for any unlawful purpose or for any use as to which the Customer has not obtained all governmental approvals, authorizations, licenses, consents and permits, required to be obtained by the Customer with respect thereto.
- B. The Company may require applicants for Service who intend to use the Company's offerings for resale and/or for shared use to file a letter with the Company confirming that their use of the Company offerings complies with relevant laws and the FCC's regulations, policies, orders, and decisions.
- C. The Company may, without obtaining any further consent from the Customer, assign any rights, privileges, or obligations under this tariff. The Customer or End User may not assign, transfer in any manner the Service or any rights associated with the Service without the written consent of the Company.
- D. The Company may require a Customer to immediately shut down its transmission of signals if Company concludes, in its sole discretion, that such transmission is causing interference to others.

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SECTION 2. RULES AND REGULATIONS

2.16 Prohibited Uses (cont'd)

- E. The Customer may not use the Services so as to interfere with or impair Service over any facilities and associated equipment, or so as to impair the privacy of any communications over such facilities and associated equipment.
- F. A Customer or End User shall not represent that its services are provided by the Company, or otherwise indicate to its Customers that its provision of Services is jointly with the Company, without the prior written consent of the Company. The relationship between the Company and Customer shall not be that of partners or agents for one or the other, and shall not be deemed to constitute a partnership or agency agreement.

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SECTION 2. RULES AND REGULATIONS

2.17 Non-Routine Installation

At the Customer's request, installation and/or maintenance may be performed outside the Company's regular business hours or in hazardous locations. In such cases, charges based on cost of the actual labor, material, or other costs incurred by or charged to the Company will apply. If installation is started during regular business hours but, at the Customer's request, extends beyond regular business hours into time periods including, but not limited to, weekends, holidays, and/or night hours, additional charges may apply.

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SECTION 2. RULES AND REGULATIONS

2.18 Obligations of the Customer

The Customer (or the End User, as the case may be) shall be responsible for:

- A. The payment of all charges applicable to the Services.
- B. Damage or loss of the Company's facilities or equipment caused by the acts or omissions of the Customer or End User or the non-compliance by the Customer or End User with the provisions of this tariff; or by fire or theft or other casualty on the premises of the Customer or End User unless caused by the negligence or willful misconduct of the employees or agents of the Company;
- C. Providing as specified from time to time by the Company any needed personnel, equipment, space and power to operate Company facilities and equipment installed on the Premises, and providing the level of power, heating and air conditioning necessary to maintain the proper environment on such Premises;

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Issued:

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SECTION 2. RULES AND REGULATIONS

2.18 Obligations of the Customer (Continued)

- D. Obtaining, maintaining, and otherwise having full responsibility for rights of way necessary to install equipment to provide Service to the Customer or End User from the minimum point of entry or the property line of the land on which the structure wherein any termination point or origination point used by the Customer or End User is placed or located, whichever is applicable, through the point of entry into the structure, throughout the structure, to the location of the equipment space. Any and all costs associated with the obtaining and maintaining of the rights of way described herein, including the costs of altering the structure to permit installation of the Company-provided facilities, shall be borne entirely by the Customer. The Company may require the Customer to demonstrate its compliance with this section prior to accepting a Service Order.
- E. Providing a safe place to work and complying with all laws and regulations regarding the working conditions on the Premises. The Customer may be required to install and maintain Company facilities and equipment within a hazardous area if, in the Company's opinion, injury to Company employees or property might result from installation or maintenance by the Company.

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SECTION 2. RULES AND REGULATIONS

2.18 Obligations of the Customer (Continued)

- F. Complying with all laws and regulations applicable to, and obtaining all consents, approvals, licenses and permits as may be required with respect to, the location of Company facilities and equipment in any Premises or the rights-of-way for which the Customer is responsible, and obtaining permission for Company agents or employees to enter the Premises at any reasonable hour for the purpose of installing, inspecting, repairing, or, upon termination of Service as stated herein, removing the facilities or equipment of the Company;
- G. Making Company facilities and equipment available periodically for maintenance purposes at a time agreeable to both the Company and the Customer. No allowance will be made for the period during which Service is interrupted for such purposes.
- H. Keeping the Company's equipment and facilities located on the Customer's premises or rights-of-way obtained by the Customer free and clear of any liens or encumbrances relating to the Customer's use of the Company's Services or from the locations of such equipment and facilities.
- I. Providing, operating and maintaining Customer provided or End User equipment on the Premises. Conformance of Customer provided or End User premises equipment with part 68 of the FCC Rules is the responsibility of the Customer.

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SECTION 2. RULES AND REGULATIONS

2.19 Liability of the Company

- A. The Services the Company furnishes are subject to the terms, conditions, and limitations specified in this tariff and to such particular terms, conditions, and limitations as set forth in the special regulations applicable to the particular Services and facilities furnished under this tariff.
- B. The liability of the Company for damages arising out of the furnishing of these Services, including but not limited to mistakes, omissions, interruptions, delays, tortious conduct or errors, or other defects, representations, or use of these Services or arising out of the failure to furnish the Service, whether caused by acts of commission or omission, shall be limited to the extension of allowances for interruption. The extension of such allowances for interruption shall be the sole remedy of the Customer or End User and the sole liability of the Company. The Company will not be liable for any special, consequential, exemplary or punitive damages a Customer may suffer, whether or not caused by the intentional acts or omissions or negligence of the Company's employees or agents.

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SECTION 2. RULES AND REGULATIONS

2.19 Liability of the Company (Continued)

- C. The Company shall not be liable for, nor shall any Service Credits be extended for, any failure of performance or equipment due to causes beyond its control, including but not limited to: acts of God, fire, flood or other catastrophes; any law, order, regulation, direction, action, or request of the United States Government, or of any other government, including state and local governments having or claiming jurisdiction over the Company, or of any department, agency commission, bureau, corporation, or other instrumentality of any one or more of these federal, state, or local governments, or any civil or military authority, national emergencies, insurrections, riots, wars, unavailability of rights-of-way or materials, or strikes, lock-outs, work stoppages, or other labor difficulties.
- D. The Company shall not be liable for any act or omission by any entity furnishing to the Company or to the Company's Customers facilities or equipment used for or with the Services the Company offers.
- E. The Company shall not be liable for any damages or losses due to the fault or negligence of the Customer or due to the failure or malfunction of Customer-provided equipment or facilities.
- F. Company shall not be liable for the claims of vendors supplying equipment to Customers of the Company which may be installed at premises of the Company, nor shall the Company be liable for the performance of any such vendor or vendor's equipment.

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Issued:

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SECTION 2. RULES AND REGULATIONS

2.19 Liability of the Company (Continued)

- G. The Company does not guarantee nor make any warranty with respect to installations it provides for use in an explosive atmosphere. The Customer indemnifies and holds the Company harmless from any and all loss, claims, demands, suits, or other action, or any liability whatsoever, whether suffered, made, instituted, or asserted by any other party or person(s), and for any loss, damage, or destruction of any property, whether owned by the Customer or others, caused or claimed to have been caused directly or indirectly by the installation, operation, failure to operate, maintenance, removal, presence, condition, location, or use of any installation so provided.
- H. The Company is not liable for any defacement of or damage to the Premises resulting from the furnishing of Services, equipment, or associated wiring on such Premises or the installation or removal thereof, except where such defacement or damage is the result of negligence or willful misconduct on the part of the agents or employees of the Company.
- I. The Company shall not be liable for any damages resulting from delays in meeting any Service dates.

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SECTION 2. RULES AND REGULATIONS

2.19 Liability of the Company (Continued)

K. The Company shall not be liable for any damages whatsoever associated with service, facilities, or equipment which the Company does not furnish or for any act or omission of Customer or any other entity furnishing services, facilities or equipment used for or in conjunction with Service.

L. THE COMPANY MAKES NO WARRANTIES OR REPRESENTATIONS, EXPRESS OR IMPLIED EITHER IN FACT OR BY OPERATION OF LAW, STATUTORY OR OTHERWISE, INCLUDING WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR USE, EXCEPT THOSE EXPRESSLY SET FORTH HEREIN.

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SECTION 2. RULES AND REGULATIONS

2.20 Indemnification

The Customer and any End User, jointly and severally, shall indemnify, defend and hold the Company harmless from claims, loss, damage, expense (including attorney's fees and court costs), or liability (including liability for patent infringement) arising from: (1) any claims made against Company by any End User in connection with the delivery or consumption of Services; (2) combining with, or using in connection with facilities the Company furnished, facilities the Customer or End User furnished; or (3) use of facilities the Company furnished in a manner the Company did not contemplate and over which the Company exercises no control. In the event that any infringing use is enjoined, the Customer, at its option and expense, may obtain immediately a dismissal or stay of such injunction, obtain a license or other agreement so as to extinguish the claim of infringement, terminate the claimed infringing use, or modify such combination so as to avoid any such infringement. In addition and without limitation, the Customer and any End Users shall defend, on behalf of the Company and upon request by the Company, any suit brought or claim asserted against the Company for any such claims.

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SECTION 2. RULES AND REGULATIONS

2.21 Maintenance and Testing

- A. Upon suitable notice, the Company may make such tests, adjustments, and inspections as may be necessary to maintain the Company's facilities in satisfactory operating condition. No interruption allowance will be credited to the Customer for the period during which the Company makes such tests, adjustments, or inspections.
- B. Upon suitable notification to the Customer, and at a reasonable time, the Company may make such tests and inspections as may be necessary to determine that the Customer or End User is complying with the requirements set forth above for the installation, operation, and maintenance of Customer provided facilities, equipment, and wiring in the connection of Customer provided facilities and equipment to Company-owned facilities and equipment. If the protective requirements for Customer-provided equipment are not being complied with, the Company may take such action as it deems necessary to protect its facilities, equipment, and personnel. The Company will notify the Customer promptly if there is any need for further corrective action. Within ten (10) days of receiving this notice, the Customer must take such action. If the Customer fails to do this, the Company may take whatever additional action is deemed necessary, including the suspension of Service, to protect its facilities, equipment, and personnel from harm.

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SECTION 2. RULES AND REGULATIONS

2.22 Determination of Jurisdiction of Mixed Interstate and Intrastate Service

When mixed interstate and intrastate Service is provided over a dedicated facility, the jurisdiction will be determined as follows:

1. If the Customer's estimate of the intrastate traffic on the Service equals 10% or more of the total traffic on that Service, the Service will be provided according to the applicable rules and regulations of this tariff.
2. If the Customer's estimate of the intrastate traffic on the Service is less than 10% of the total traffic on that Service, the Service will be provided according to the applicable rules and regulations of the Company's interstate tariff.
3. If the jurisdiction of interstate traffic on the Service changes to the extent that it alters the jurisdiction of the Service, the Customer must notify the Company of any required change in status. The affected Service will revert to the appropriate jurisdictional tariff within the next full billing cycle. No retroactive rate adjustments will apply to the period prior to the change in the Company's records. Any applicable Term Agreement will be transferred with the jurisdictional change.

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SECTION 3. DESCRIPTION OF SERVICES

The Company provides data transport between End Users and its Customers using a variety of digital transmission technologies, over the Company's own facilities and/or facilities of other carriers.

Depending on distance from the Company's facilities, Services may not be available to all customers. Special construction charges may apply in each case. Company's Services are data services only and will not be accompanied by 411, 911, or other voice services. In addition to the charges specified for each Service, additional charges may apply for transfers of data per month, at certain times in excess of certain thresholds, or for certain billing, monitoring or other services. Other services may be provided by the Company on an Individual Case Basis, depending on such factors as length of loops involved, quality of loops and other factors.

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SECTION 4. RATES AND CHARGES

Access Services for Interstate Communication Services

Description of Services

The Company provides data transport between End-Users and its Customers using a variety of digital transmission technologies, over the Company's own facilities and/or facilities of other carriers.

Depending on distance from the Company's facilities, service may not be available to all customers. Special construction charges may apply in each case. Company's services are data services only and will not be accompanied by 411, 911, or other voice services. In addition to the charges specified for each service, additional charges may apply for transfers of data per month, at certain times, in excess of certain thresholds, or for certain billing, monitoring or other services. Other services may be provisioned by the company on an individual case basis (ICB), depending on such factors as length of loops involved, quality of loops and other factors.

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SECTION 4. RATES AND CHARGES

4.1 Local Loop (per month)

144 kbps IDSL	\$75
160 kbps	\$75
200 kbps	\$90
416 kbps	\$125
784 kbps	\$165
1040 kbps	\$199
1.54 Mbps	\$250

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**SECTION 4. RATES AND CHARGES****4.2 Aggregation**

Time From Interconnection	With New Edge Provided DS-3 link (up to 25 miles)	Without DS-3 Link
First Month	\$1000	\$500
Second Month	\$2000	\$1000
Third Month	\$3000	\$1750
Fourth Month (After)	\$4000	\$2500
	Note: DS-3 links of more than 25 miles will be priced on an ICB basis.	Note: applies to customers in same collocation space as well as those who purchase or provide their own DS3 interconnection.

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**SECTION 4. RATES AND CHARGES****4.3 Non-recurring Charges**

Standard Installation	\$375
Nonstandard Installation (materials extra)	\$375 + \$40 per hour after 2 <sup>nd</sup>
Reschedule visit due to lack of exit	\$95
Standard Inside move	\$150
Non standard in-side move (materials extra)	\$150 + \$40 per hour after 2 <sup>nd</sup>
Outside Move	\$375
Cancellation of order— within ILEC cancellation period	\$50
Cancellation of order— outside ILEC cancellation period	\$275
Site survey (on request)	\$95
Speed Change	\$100
Inside wiring repair (materials extra)	\$95 + \$40/hour after 1 <sup>st</sup>

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## **Exhibit 5**

### **Illustrative Interexchange Tariff**

**TARIFF SCHEDULE GOVERNING  
THE PROVISION OF  
INTEREXCHANGE COMMUNICATIONS SERVICES  
FURNISHED BY  
NEW EDGE NETWORK, INC.  
d/b/a NEW EDGE NETWORKS  
WITHIN THE STATE OF TENNESSEE**

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CHECK SHEET

<u>Sheet No.</u>	<u>Revision</u>	<u>Sheet No.</u>	<u>Revision</u>
1	Original	29	Original
2	Original	30	Original
3	Original	31	Original
4	Original	32	Original
5	Original	33	Original
6	Original	34	Original
7	Original	35	Original
8	Original	36	Original
9	Original	37	Original
10	Original	38	Original
11	Original	39	Original
12	Original	40	Original
13	Original	41	Original
14	Original	42	Original
15	Original	43	Original
16	Original	44	Original
17	Original		
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28	Original		

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Issued:

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Issued:

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EXPLANATION OF SYMBOLS

- (C) To signify a changed listing, rule or condition which may affect rates or charges.
- (D) To signify discontinued material, including but not limited to a listing, rate, rule or condition.
- (I) To signify an increase.
- (M) To signify material relocated from or to another part of tariff schedule with no change in text, rate, rule, or condition.
- (N) To signify new material including a listing, rate, rule, or condition.
- (R) To signify a reduction.
- (T) To signify a change in wording of text but no change in rate, rule, or condition.
- (Z) To signify a Correction

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CONCURRING CARRIERS

None.

CONNECTING CARRIERS

None.

OTHER PARTICIPATING CARRIERS

None.

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DEFINITIONS

Advance Payment: Part or all of a payment required before the start of Service.

Authority: The Tennessee Regulatory Authority

Company: New Edge Network Inc. d/b/a New Edge Networks, the issuer of this tariff.

Customer: The person, firm or corporation which orders Service and is responsible for the payment of charges and compliance with the terms and conditions of this tariff.

Dedicated: A facility or equipment system or subsystem set aside for the sole use of a specific Customer or End User.

DSL: Digital Subscriber Line.

End Office: The switching system office or serving wire center where loops are terminated for purposes of interconnection to each other and/or to trunks.

End User: A person, firm or corporation who is designated by the Customer as a user of Company's Service furnished to the Customer. The End User must be specifically identified in the Application for Service.

End User Premises Equipment: Equipment provided by the Customer, the End User, or any party other than the Company that is located on the End User's premises and is connected to the Company's network.

FCC: Federal Communications Commission.

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DEFINITIONS (Continued)

**Individual Case Basis:** A service arrangement in which the regulations, rates and charges are developed based on the specific circumstances of the Customer and at the Company's sole discretion.

**Kbps:** Kilobits per second, denotes thousands of bits per second.

**Mbps:** Megabits per second, denotes millions of bits per second.

**Origination Point:** The point of demarcation between the Company's facilities and those of the End User.

**Premises:** The space occupied by a Customer or End User in a building or buildings or contiguous property.

**Recurring Charges:** The monthly charges to the Customer for Services, facilities and equipment, which continues for the agreed-upon duration of the Service.

**Services:** The services, or combination thereof, offered by the Company and contained in this Tariff.

**Service Order:** The request for Company Services submitted by the Customer in the format devised by the Company. The submission of a Service Order by the Customer and confirmation thereof by the Company initiates the respective obligations of the parties as set forth therein and pursuant to this tariff.

**Special Facilities:** Any facilities, goods, supplies, products, equipment, fixtures or other installation specifically installed or constructed for Customer by Company pursuant to a negotiated agreement between Company and Customer.

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DEFINITIONS (Continued)

**Term Agreement:** An agreement between the Company and a Customer for the delivery of Services for a stated minimum duration.

**Termination Point:** The demarcation point between Company's facilities and the Customer's facilities.

**Transmission Speed:** Transmission speed or rate, in bits per second (bps), as agreed to by Company and Customer.

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Issued:

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SECTION I. APPLICATION OF TARIFF

This tariff sets forth rules applicable to the provision of intrastate interexchange high speed digital access and high capacity private line Services using a variety of digital transmission technologies.

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Issued:

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SECTION 2. RULES AND REGULATIONS

2.1 Undertaking of the Company

The Company undertakes to furnish Services in accordance with the terms and conditions set forth in this tariff.

2.2 Terms and Conditions

The Company shall have no responsibility with respect to billings, charges, or disputes related to Services used by the Customer which are not included in the Services herein including, without limitation, any local, regional or long distance services not offered by the Company. The Customer shall be fully responsible for the payment of any bills for such services and for the resolution of any disputed or discrepancies with the appropriate service provider.

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SECTION 2. RULES AND REGULATIONS

2.3 Application for Service

Customers desiring to obtain Service must submit Service Orders in the form and format specified by Company.

2.3.1 Cancellation of Application for Service

If a Customer cancels a Service Order after Company has commenced installation of Service, a cancellation charge may apply.

2.3.2 Cancellation of Service

Subject to cancellation charges referenced herein, the Customer may have Service discontinued upon thirty (30) days' written notice to the Company. The Company shall hold the Customer responsible for payment of all bills for Service furnished until the effective cancellation of Service. As specified in 2.10.2 below, a termination charge may apply to early cancellation of a Term Agreement.

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Issued:

Effective:

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## SECTION 2. RULES AND REGULATIONS

### 2.4 Assignment or Transfer

All Service provided under this tariff is directly or indirectly controlled by the Company and the Customer may not transfer or assign the use of Service (except in the case of a merger or sale of substantially all the assets of Customer) without the express prior written consent of the Company, and then only when such transfer or assignment can be accomplished without interruption of the use or change in the location of Service. All terms and conditions contained in this tariff shall apply to any and all such transferees or assignees. The Customer shall, unless otherwise expressly agreed by the Company in writing, remain liable for the payment of all charges due under this tariff or any applicable agreements.

### 2.5 Contracts

The Company may also offer intrastate exchange access services on a non-tariffed, contractual basis. The terms and conditions of this tariff do not apply to such contractual services, except to the extent expressly incorporated into a contract. The Company will file all such contracts with the Tennessee Regulatory Authority, pursuant to Authority rules.

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Issued:

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SECTION 2. RULES AND REGULATIONS

2.6 Deposits

- A. The Company may, in order to safeguard its interests, require any Customer to make a deposit prior to or at any time after Service is provided to the Customer, to be held by the Company as a guarantee of the payment of rates and charges.
- B. A deposit may not exceed: (i) the actual or estimated rates and charges, including non-recurring charges, for the Service for a two month period; or (ii) the charges that would apply for the minimum period for a Service which has a minimum term of more than one month, plus any applicable termination charge. The fact that a deposit has been made in no way relieves the customer from complying with the Company's requirement as to the prompt payment of bills.
- C. At such time as the provision of the Service to the Customer is terminated, the amount of the deposit will be credited to the Customer's account and any credit balance which may remain will be refunded.
- D. In case of a cash deposit, for the period the deposit is held by the Company, simple annual interest will be applied to the deposit for the number of days from the date the Customer deposit is received by the Company to and including the date such deposit is credited to the Customer's account or the date the deposit is refunded by the Company.
- E. If at any time the amount of a deposit is less than required to meet the requirements specified above, the Customer shall be required to pay an additional deposit upon request.

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SECTION 2. RULES AND REGULATIONS

2.7 Notices

Any notice Company may give to a Customer shall be deemed properly given when delivered, if delivered in person, or when sent via facsimile, electronic mail or when deposited with the U.S. Postal Service or other express delivery service.

2.8 Payment and Rendering of Bills

- A. The Company shall bill all charges incurred by and credits due to the Customer. The Customer may choose to receive bills in either paper or electronic format. Such bills are due within thirty (30) days after the date of issuance thereof, regardless of the media utilized. The Company shall bill in advance charges for all Services to be provided during the ensuing billing period except for charges associated with Service usage. Adjustments for the quantities of Service established or discontinued in any billing period beyond the minimum period will be prorated to the number of days based on a 30 day month. The Company will, upon request and if available, furnish such detailed information as may reasonably be required for verification of the bill.
- B. The Company shall bill for all Services rendered within 90 days of when those Services are provided.

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Issued:

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SECTION 2. RULES AND REGULATIONS

2.8 Payment and Rendering of Bills (Continued)

- C. All bills for Service provided to the customer by the Company are due thirty (30) days from the date of issuance of the bill. If any portion of the payment is received by the Company after the payment due date as set forth above, or if any portion of the payment is received by the Company in funds which are not immediately available to the Company, then a late payment penalty shall be due the Company. The late payment penalty shall be a portion of the payment not received by the payment due date times a late factor. The late factor shall be 1.5% per month (0.049315% per day) or 18% annually, or the highest rate allowed by law, whichever is the lesser. The late factor will be applied for the number of days from the payment due date to and including the date that the Customer makes the late payment funds immediately available to the Company.
- D. Customer shall be responsible for payment of all sales, use, gross receipts, excise, access, bypass, franchise or other local, state and Federal taxes, fees, charges, or surcharges, however designated, imposed on or based upon the provision, sale or use of the Services rendered by Company, (excepting Company's income taxes). Such taxes shall be separately stated on the Customer's invoice.

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SECTION 2. RULES AND REGULATIONS

2.9 Disputed Bills

In the event that a billing dispute occurs concerning any charges billed to the Customer by the Company, the Customer must pay the undisputed portion of the invoice in full and submit a documented claim for the disputed amount. The Customer shall submit all documentation as may reasonably be required to support the claim. All claims must be submitted to the Company within 60 days of receipt of billing for those Services. If the Customer does not submit a claim as stated above, the Customer waives all rights to filing a claim thereafter. Unless disputed, the invoice shall be deemed to be correct and payable in full by Customer. If the Customer is unable to resolve any dispute with the Company, then Customer may file a complaint with the Authority.

If the dispute is resolved in favor of the Customer and the Customer has withheld the disputed amount, no interest or penalties will apply.

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SECTION 2. RULES AND REGULATIONS

2.10 Discontinuance and Restoration of Service

2.10.1 Cancellation by the Company

- A. For Nonpayment: The Company may, upon ten (10) days written notice to the Customer, discontinue Service or cancel an application for Service without incurring any liability when there is an unpaid balance for Service that is overdue.
- B. For Returned Checks: A Customer whose check or draft is returned unpaid for any reason shall be subject to discontinuance of Service in the same manner as provided for nonpayment of overdue charges.
- C. For any violation of law or rules: A Customer shall be subject to discontinuance of Service, without notice, for any violation of any law, rule, regulation or policy of any government authority having jurisdiction over Service, or by reason of any order or decision of a court or other government authority having jurisdiction which prohibits the Company from furnishing such Service.
- D. For the Company to comply with any order or request of any governmental authority having jurisdiction: The Customer shall be subject to discontinuance of Service, without notice, for the Company to comply with any order or request of any governmental authority having jurisdiction.

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SECTION 2. RULES AND REGULATIONS

2.10 Discontinuance and Restoration of Service (cont'd)

2.10.1 Cancellation by the Company (cont'd)

- E. For Other Causes: A Customer shall be subject to discontinuance of Service, without notice, in the event of suspected fraud or other unlawful use of the Service, or fraud or misrepresentation in any submission of information required in a Service Order or any other information submitted to Company.
- F. For any Customer filing of bankruptcy or reorganization or failing to discharge an involuntary petition therefor within the time permitted by law: The Company may immediately discontinue or suspend Service under this tariff without incurring any liability.

2.10.2 Cancellation of Term Agreement

Upon the cancellation of Service provided under a Term Agreement, an early termination charge may apply.

2.10.3 Resumption of Service

If Service has been discontinued for nonpayment or as otherwise provided herein and the Customer wishes it continued, Service shall, at the Company's discretion, be restored when all past due amounts are paid or the event giving rise to the discontinuance (if other than nonpayment) is corrected to the satisfaction of Company in Company's sole and absolute discretion and Customer pays a deposit at Company's discretion. All applicable nonrecurring charges shall apply when Services are restored.

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SECTION 2. RULES AND REGULATIONS

2.11 Information to be Provided to the Public

The Company will use reasonable efforts to advise Customers who may be affected of new, revised or optional rates applicable to their Service.

2.12 [Intentionally left blank]

2.13 Credit Allowance for Interruptions

A credit allowance will be given on a per line basis for service interruptions, defined as any period during which any line subscribed to by the Customer hereunder and/or, if applicable, Company-provided equipment attached thereto is out of service, except as specified below. Out of service conditions are defined as complete loss of data transmission capability. Credit allowances, if any, shall be deducted from the charges payable by the Customer hereunder and shall be expressly indicated on the next bill to the Customer. An interruption period begins the earlier of when the Customer reports a malfunction in Service to the Company or Company becomes independently aware of such malfunction. A malfunction period ends when the affected line and/or associated equipment is fully operative.

A. Credit allowances do not apply to interruptions:

- 1) caused by the Customer, any End User or any third party;
- 2) due to failure of power or equipment provided by the Customer or others;
- 3) during any period in which the Company is not given access to the Premises;

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**SECTION 2. RULES AND REGULATIONS****2.13 Credit Allowance for Interruptions (Continued)**

- 4) due to scheduled maintenance and repair; or
- 5) due to Acts of God or other events listed in section 2.19(C) below.

**B. Interruption of Twenty-Four (24) Hour or Less - Portion of Daily Per-Line Charge**

<u>Length of Service Interruption</u>	<u>Credit</u>
-Less than 4 hours	None
-4 hours up to but not including 8 hours	1/3 of day
-8 hours up to but not including 12 hours	1/2 of day
-12 hours up to but not including 16 hours	2/3 of day
-16 hours up to 24 hours	one day

Two or more Service interruptions of the same type to the same line/equipment of two (2) hours or more during any one twenty-four (24) hour period shall be considered as one interruption. In no event shall such interruption credits for any one line/equipment exceed one (1) day's fixed recurring charges for such line/equipment in any twenty-four (24) hour period.

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SECTION 2. RULES AND REGULATIONS

2.13 Credit Allowance for Interruptions (Continued)

C. Interruptions over Twenty-Four (24) Hours

Service interruptions over twenty-four (24) hours will be credited four (4) hours for each four (4) hour period or fraction thereof. No more than one (1) full day's credit will be allowed for any period of twenty-four hours.

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SECTION 2. RULES AND REGULATIONS

2.14 Service Connections

- A. All Service along the facilities between the point identified as the Company's origination point and the point identified as the Company's termination point will be furnished by the Company, its agents or contractors.
- B. Customer shall allow Company continuous access and right-of-way to both Customer and End User Premises to the extent reasonably determined by the Company to be appropriate to the provision and maintenance of Services, equipment, facilities and systems relating to this tariff.
- C. The Company may undertake to use reasonable efforts to make available Services to a Customer on or before a particular date, subject to the provisions of and compliance by the Customer with the regulations contained in this tariff. The Company does not guarantee availability by any such date and shall not be liable for any delays in commencing Service to any Customer.

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SECTION 2. RULES AND REGULATIONS

2.14 Service Connections (cont'd)

- D. The Company undertakes to use reasonable efforts to maintain only the facilities and equipment that it furnishes to the Customer or End User. Neither the Customer or the End User may, nor permit others to, rearrange, disconnect, remove, attempt to repair, or otherwise tamper with any of the facilities or equipment installed by the Company, except upon the written consent of the Company.
- E. Title to all facilities (except such equipment and/or facilities as are sold to or independently provided by a Customer or End User), including terminal equipment, shall remain with the Company. The operating personnel and the electric power consumed by such equipment on the Premises of Customer or End User shall be provided by and maintained at the expense of the Customer.

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SECTION 2. RULES AND REGULATIONS

2.14 Service Connections (Continued)

- F. Equipment the Company provides or installs at the Customer's or End User's Premises for use in connection with the Services shall not be used for any purpose other than that for which the Company provided it.
- G. The Company shall not be responsible for the operation or maintenance of any Customer or End User provided communications equipment. The Company may install certain Customer or End User provided communications equipment upon installation of Service; unless otherwise agreed by the Company in writing, Company shall not thereafter be responsible for the operation or maintenance of such equipment. Where such equipment is connected to the facilities furnished pursuant to this tariff, the responsibility of the Company shall be limited to the furnishing of facilities offered under this tariff and to the maintenance and operation of such facilities; subject to this responsibility the Company shall not be responsible for:
  - 1) The proper origination of signals by Customer provided equipment or for the quality, or defects in, such signals; or
  - 2) The reception of signals by Customer provided equipment.
- H. The Customer shall be responsible for the payment of service charges for visits by the Company's agents or employees to the Premises when the Service difficulty or trouble report results from the improper or inappropriate use of equipment or facilities by the Customer or End User.

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SECTION 2. RULES AND REGULATIONS

2.14 Service Connections (Continued)

- I. In the event Company places Company equipment on Customers' premises for the purpose of furnishing service under this agreement, unless otherwise stipulated, Company is solely responsible for operating and maintaining such equipment. In the event that Customer attempts to operate or maintain any such equipment without first obtaining Company's written approval, in addition to any other remedies of Company for a breach by Customer of Customer's obligations hereunder, Customer shall pay Company for any damage to Company's equipment caused or related to such unauthorized operation or maintenance of Company's equipment upon receipt by Customer of a Company invoice therefor. In no event shall Company be liable to Customer, End User or any other person for interruption of the Service or for any other loss, cost or damage caused or related to Customer's improper or inappropriate use of Company-provided equipment.
- J. Customer agrees to allow Company to remove all Company-provided equipment from Customer or End User's premises:
  - 1 ) upon termination, interruption or suspension of the Service in connection with which the equipment was used; and
  - 2) for repair, replacement or otherwise as Company may determine is necessary or desirable.
- K. At the time of such removal, such equipment shall be in the same condition as when delivered to Customer or installed in Customer or End User's premises, normal wear and tear only excepted. Customer shall reimburse Company for the unamortized cost of any such equipment in the event the foregoing conditions are not met.

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SECTION 2. RULES AND REGULATIONS

2.14 Service Connections (Continued)

- L. The Customer or End User is responsible for ensuring that Customer- or End User-provided equipment connected to Company equipment and facilities is compatible with such Company equipment and facilities. The magnitude and character of the voltages and currents impressed on Company-provided equipment and wiring by the connection, operation, or maintenance of such equipment and wiring shall be such as not to cause damage to the Company provided equipment and wiring or injury to the Company's employees or to other persons. Customer will submit to Company a complete manufacturer's specification sheet for each item of equipment that is not provided by the Company and which shall be attached to the Company's facilities. The Company shall approve the use of such item(s) of equipment unless such item is technically incompatible with Company's facilities. Any additional protective equipment required to prevent such damage or injury shall be provided by the Company at the Customer's expense.
- M. Any special interface equipment necessary to achieve compatibility between the facilities and equipment of the Company used for furnishing Service, and the channels, facilities, or equipment of others shall be provided at the Customer's expense.

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SECTION 2. RULES AND REGULATIONS

2.15 Limitation of Service Equipment or Facilities

- A. Service is offered subject to the provisions of this tariff and the availability of the necessary facilities and/or equipment, and is limited to the ongoing availability and capacity of the Customer's facilities as well as the facilities the Company may require from other carriers to furnish Service. The Company may decline Service Orders to or from a location where, in the Company's sole discretion, the necessary facilities or equipment are not available. The Company may discontinue furnishing Service in accordance with the terms of this tariff.
- B. The Company reserves the right to discontinue or limit Service when necessitated by conditions beyond its control, or when Service is used in violation of provisions of this tariff or the law.
- C. The Company does not undertake to transmit messages, but offers the use of its Service when available, and, as more fully set forth elsewhere in this tariff, shall not be liable for errors in transmission or for failure to establish connections.
- D. The Company reserves the right to discontinue Service, limit Service, or to impose requirements as required to meet changing regulatory or statutory rules and standards, or when such rules and standards have an adverse material affect on the business or economic feasibility of providing Service, as determined by the Company in its reasonable judgment.
- E. The furnishing of Service under this tariff is subject to the availability on a continuing basis of all the necessary facilities and is limited to the capacity of the Company's facilities, as well as facilities the Company may obtain from other carriers to furnish Service from time to time as required at the sole discretion of the Company.

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SECTION 2. RULES AND REGULATIONS

2.16 Prohibited Uses

- A. The Services of the Company shall not be used for any unlawful purpose or for any use as to which the Customer has not obtained all governmental approvals, authorizations, licenses, consents and permits, required to be obtained by the Customer with respect thereto.
- B. The Company may require applicants for Service who intend to use the Company's offerings for resale and/or for shared use to file a letter with the Company confirming that their use of the Company offerings complies with relevant laws and the FCC's regulations, policies, orders, and decisions.
- C. The Company may, without obtaining any further consent from the Customer, assign any rights, privileges, or obligations under this tariff. The Customer or End User may not assign, transfer in any manner the Service or any rights associated with the Service without the written consent of the Company.
- D. The Company may require a Customer to immediately shut down its transmission of signals if Company concludes, in its sole discretion, that such transmission is causing interference to others.

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SECTION 2. RULES AND REGULATIONS

2.16 Prohibited Uses (cont'd)

- E. The Customer may not use the Services so as to interfere with or impair Service over any facilities and associated equipment, or so as to impair the privacy of any communications over such facilities and associated equipment.
- F. A Customer or End User shall not represent that its services are provided by the Company, or otherwise indicate to its Customers that its provision of Services is jointly with the Company, without the prior written consent of the Company. The relationship between the Company and Customer shall not be that of partners or agents for one or the other, and shall not be deemed to constitute a partnership or agency agreement.

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SECTION 2. RULES AND REGULATIONS

2.17 Non-Routine Installation

At the Customer's request, installation and/or maintenance may be performed outside the Company's regular business hours or in hazardous locations. In such cases, charges based on cost of the actual labor, material, or other costs incurred by or charged to the Company will apply. If installation is started during regular business hours but, at the Customer's request, extends beyond regular business hours into time periods including, but not limited to, weekends, holidays, and/or night hours, additional charges may apply.

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SECTION 2. RULES AND REGULATIONS

2.18 Obligations of the Customer

The Customer (or the End User, as the case may be) shall be responsible for:

- A. The payment of all charges applicable to the Services.
- B. Damage or loss of the Company's facilities or equipment caused by the acts or omissions of the Customer or End User or the non-compliance by the Customer or End User with the provisions of this tariff; or by fire or theft or other casualty on the premises of the Customer or End User unless caused by the negligence or willful misconduct of the employees or agents of the Company;
- C. Providing as specified from time to time by the Company any needed personnel, equipment, space and power to operate Company facilities and equipment installed on the Premises, and providing the level of power, heating and air conditioning necessary to maintain the proper environment on such Premises;

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SECTION 2. RULES AND REGULATIONS

2.18 Obligations of the Customer (Continued)

- D. Obtaining, maintaining, and otherwise having full responsibility for rights of way necessary to install equipment to provide Service to the Customer or End User from the minimum point of entry or the property line of the land on which the structure wherein any termination point or origination point used by the Customer or End User is placed or located, whichever is applicable, through the point of entry into the structure, throughout the structure, to the location of the equipment space. Any and all costs associated with the obtaining and maintaining of the rights of way described herein, including the costs of altering the structure to permit installation of the Company-provided facilities, shall be borne entirely by the Customer. The Company may require the Customer to demonstrate its compliance with this section prior to accepting a Service Order.
- E. Providing a safe place to work and complying with all laws and regulations regarding the working conditions on the Premises. The Customer may be required to install and maintain Company facilities and equipment within a hazardous area if, in the Company's opinion, injury to Company employees or property might result from installation or maintenance by the Company.

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SECTION 2. RULES AND REGULATIONS

2.18 Obligations of the Customer (Continued)

- F. Complying with all laws and regulations applicable to, and obtaining all consents, approvals, licenses and permits as may be required with respect to, the location of Company facilities and equipment in any Premises or the rights-of-way for which the Customer is responsible, and obtaining permission for Company agents or employees to enter the Premises at any reasonable hour for the purpose of installing, inspecting, repairing, or, upon termination of Service as stated herein, removing the facilities or equipment of the Company;
- G. Making Company facilities and equipment available periodically for maintenance purposes at a time agreeable to both the Company and the Customer. No allowance will be made for the period during which Service is interrupted for such purposes.
- H. Keeping the Company's equipment and facilities located on the Customer's premises or rights-of-way obtained by the Customer free and clear of any liens or encumbrances relating to the Customer's use of the Company's Services or from the locations of such equipment and facilities.
- I. Providing, operating and maintaining Customer provided or End User equipment on the Premises. Conformance of Customer provided or End User premises equipment with part 68 of the FCC Rules is the responsibility of the Customer.

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SECTION 2. RULES AND REGULATIONS

2.19 Liability of the Company

- A. The Services the Company furnishes are subject to the terms, conditions, and limitations specified in this tariff and to such particular terms, conditions, and limitations as set forth in the special regulations applicable to the particular Services and facilities furnished under this tariff.
- B. The liability of the Company for damages arising out of the furnishing of these Services, including but not limited to mistakes, omissions, interruptions, delays, tortious conduct or errors, or other defects, representations, or use of these Services or arising out of the failure to furnish the Service, whether caused by acts of commission or omission, shall be limited to the extension of allowances for interruption. The extension of such allowances for interruption shall be the sole remedy of the Customer or End User and the sole liability of the Company. The Company will not be liable for any special, consequential, exemplary or punitive damages a Customer may suffer, whether or not caused by the intentional acts or omissions or negligence of the Company's employees or agents.

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SECTION 2. RULES AND REGULATIONS

2.19 Liability of the Company (Continued)

- C. The Company shall not be liable for, nor shall any Service Credits be extended for, any failure of performance or equipment due to causes beyond its control, including but not limited to: acts of God, fire, flood or other catastrophes; any law, order, regulation, direction, action, or request of the United States Government, or of any other government, including state and local governments having or claiming jurisdiction over the Company, or of any department, agency commission, bureau, corporation, or other instrumentality of any one or more of these federal, state, or local governments, or any civil or military authority, national emergencies, insurrections, riots, wars, unavailability of rights-of-way or materials, or strikes, lock-outs, work stoppages, or other labor difficulties.
- D. The Company shall not be liable for any act or omission by any entity furnishing to the Company or to the Company's Customers facilities or equipment used for or with the Services the Company offers.
- E. The Company shall not be liable for any damages or losses due to the fault or negligence of the Customer or due to the failure or malfunction of Customer-provided equipment or facilities.
- F. Company shall not be liable for the claims of vendors supplying equipment to Customers of the Company which may be installed at premises of the Company, nor shall the Company be liable for the performance of any such vendor or vendor's equipment.

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SECTION 2. RULES AND REGULATIONS

2.19 Liability of the Company (Continued)

- G. The Company does not guarantee nor make any warranty with respect to installations it provides for use in an explosive atmosphere. The Customer indemnifies and holds the Company harmless from any and all loss, claims, demands, suits, or other action, or any liability whatsoever, whether suffered, made, instituted, or asserted by any other party or person(s), and for any loss, damage, or destruction of any property, whether owned by the Customer or others, caused or claimed to have been caused directly or indirectly by the installation, operation, failure to operate, maintenance, removal, presence, condition, location, or use of any installation so provided.
- H. The Company is not liable for any defacement of or damage to the Premises resulting from the furnishing of Services, equipment, or associated wiring on such Premises or the installation or removal thereof, except where such defacement or damage is the result of negligence or willful misconduct on the part of the agents or employees of the Company.
- I. The Company shall not be liable for any damages resulting from delays in meeting any Service dates.

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SECTION 2. RULES AND REGULATIONS

2.19 Liability of the Company (Continued)

K. The Company shall not be liable for any damages whatsoever associated with service, facilities, or equipment which the Company does not furnish or for any act or omission of Customer or any other entity furnishing services, facilities or equipment used for or in conjunction with Service.

L. THE COMPANY MAKES NO WARRANTIES OR REPRESENTATIONS, EXPRESS OR IMPLIED EITHER IN FACT OR BY OPERATION OF LAW, STATUTORY OR OTHERWISE, INCLUDING WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR USE, EXCEPT THOSE EXPRESSLY SET FORTH HEREIN.

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SECTION 2. RULES AND REGULATIONS

2.20 Indemnification

The Customer and any End User, jointly and severally, shall indemnify, defend and hold the Company harmless from claims, loss, damage, expense (including attorney's fees and court costs), or liability (including liability for patent infringement) arising from: (1) any claims made against Company by any End User in connection with the delivery or consumption of Services; (2) combining with, or using in connection with facilities the Company furnished, facilities the Customer or End User furnished; or (3) use of facilities the Company furnished in a manner the Company did not contemplate and over which the Company exercises no control. In the event that any infringing use is enjoined, the Customer, at its option and expense, may obtain immediately a dismissal or stay of such injunction, obtain a license or other agreement so as to extinguish the claim of infringement, terminate the claimed infringing use, or modify such combination so as to avoid any such infringement. In addition and without limitation, the Customer and any End Users shall defend, on behalf of the Company and upon request by the Company, any suit brought or claim asserted against the Company for any such claims.

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SECTION 2. RULES AND REGULATIONS

2.21 Maintenance and Testing

- A. Upon suitable notice, the Company may make such tests, adjustments, and inspections as may be necessary to maintain the Company's facilities in satisfactory operating condition. No interruption allowance will be credited to the Customer for the period during which the Company makes such tests, adjustments, or inspections.
- B. Upon suitable notification to the Customer, and at a reasonable time, the Company may make such tests and inspections as may be necessary to determine that the Customer or End User is complying with the requirements set forth above for the installation, operation, and maintenance of Customer provided facilities, equipment, and wiring in the connection of Customer provided facilities and equipment to Company-owned facilities and equipment. If the protective requirements for Customer-provided equipment are not being complied with, the Company may take such action as it deems necessary to protect its facilities, equipment, and personnel. The Company will notify the Customer promptly if there is any need for further corrective action. Within ten (10) days of receiving this notice, the Customer must take such action. If the Customer fails to do this, the Company may take whatever additional action is deemed necessary, including the suspension of Service, to protect its facilities, equipment, and personnel from harm.

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SECTION 2. RULES AND REGULATIONS

2.22 Determination of Jurisdiction of Mixed Interstate and Intrastate Service

When mixed interstate and intrastate Service is provided over a dedicated facility, the jurisdiction will be determined as follows:

1. If the Customer's estimate of the intrastate traffic on the Service equals 10% or more of the total traffic on that Service, the Service will be provided according to the applicable rules and regulations of this tariff.
2. If the Customer's estimate of the intrastate traffic on the Service is less than 10% of the total traffic on that Service, the Service will be provided according to the applicable rules and regulations of the Company's interstate tariff.
3. If the jurisdiction of interstate traffic on the Service changes to the extent that it alters the jurisdiction of the Service, the Customer must notify the Company of any required change in status. The affected Service will revert to the appropriate jurisdictional tariff within the next full billing cycle. No retroactive rate adjustments will apply to the period prior to the change in the Company's records. Any applicable Term Agreement will be transferred with the jurisdictional change.

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SECTION 3. DESCRIPTION OF SERVICES

The Company provides data transport between End Users and its Customers using a variety of digital transmission technologies, over the Company's own facilities and/or facilities of other carriers.

Depending on distance from the Company's facilities, Services may not be available to all customers. Special construction charges may apply in each case. Company's Services are data services only and will not be accompanied by 411, 911, or other voice services. In addition to the charges specified for each Service, additional charges may apply for transfers of data per month, at certain times in excess of certain thresholds, or for certain billing, monitoring or other services. Other services may be provided by the Company on an Individual Case Basis, depending on such factors as length of loops involved, quality of loops and other factors.

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SECTION 4. RATES AND CHARGES

Access Services for Interstate Communication Services

Description of Services

The Company provides data transport between End-Users and its Customers using a variety of digital transmission technologies, over the Company's own facilities and/or facilities of other carriers.

Depending on distance from the Company's facilities, service may not be available to all customers. Special construction charges may apply in each case. Company's services are data services only and will not be accompanied by 411, 911, or other voice services. In addition to the charges specified for each service, additional charges may apply for transfers of data per month, at certain times, in excess of certain thresholds, or for certain billing, monitoring or other services. Other services may be provisioned by the company on an individual case basis (ICB), depending on such factors as length of loops involved, quality of loops and other factors.

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**SECTION 4. RATES AND CHARGES****4.1 Aggregation**

Time From Interconnection	With New Edge Provided DS-3 link (up to 25 miles)	Without DS-3 Link
First Month	\$1000	\$500
Second Month	\$2000	\$1000
Third Month	\$3000	\$1750
Fourth Month (After)	\$4000	\$2500
	Note: DS-3 links of more than 25 miles will be priced on an ICB basis.	Note: applies to customers in same collocation space as well as those who purchase or provide their own DS3 interconnection.

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**SECTION 4. RATES AND CHARGES****4.2 Non-recurring Charges**

Standard Installation	\$375
Nonstandard Installation (materials extra)	\$375 + \$40 per hour after 2 <sup>nd</sup>
Reschedule visit due to lack of exit	\$95
Standard Inside move	\$150
Non standard in-side move (materials extra)	\$150 + \$40 per hour after 2 <sup>nd</sup>
Outside Move	\$375
Cancellation of order— within ILEC cancellation period	\$50
Cancellation of order— outside ILEC cancellation period	\$275
Site survey (on request)	\$95
Speed Change	\$100
Inside wiring repair (materials extra)	\$95 + \$40/hour after 1 <sup>st</sup>

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Issued:

Effective:

By:

Daniel Moffat, President  
New Edge Network, Inc. d/b/a New Edge Networks  
3000 Columbia House Boulevard, Ste. 106  
Vancouver, Washington 98661

## **Exhibit 6**

### **Sample Customer Bill**

CUSTOMER NAME:  
XXX Company  
Attention: Accounts Payable  
123 Main Street  
Anytown, USA 12345

SEND PAYMENT TO:  
New Edge Networks  
P.O. Box 5159  
Vancouver, Washington 98668-5159

## Account Summary

Account Number: XX-XXX-XX-XXX

Bill Date: July 16, 1999

Approximate Bill Mailing Date: July 17, 1999

### Previous Balances

Charges	\$116.33
Payments (Jul 06 – Thank you for your payment)	(116.33)

<b>Balance Forward</b>	<b>\$0.00</b>
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### New Charges

DSL Services	138.75
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<b>Total New Charges</b>	<b>138.75</b>
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*Due Date for New Charges is August 5, 1999*

<b>TOTAL AMOUNT DUE</b>	<b>\$138.75</b>
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Please make check payable to **New Edge Networks** and mail to the address noted above  
A late payment charge of 1.5% may apply if amount due does not reach us by August 16, 1999  
There is a \$20 charge for returned checks

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## Account Detail

Charges from June 16 to July 16, 1999

### Data Services:

Interstate Digital Subscriber Line (DSL) Services

*Customer:*

**Phone Number**

416 kbps bi-directional, dedicated, monthly charge	\$125.00
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<b>TOTAL DATA SERVICES</b>	<b>125.00</b>
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### Taxes and Fees:

Federal Subscriber Line Charge	3.50
City Tax (1%)	1.25
Federal Sales Tax	4.88
Federal Universal Service Charge	1.13
Special Municipal Charge	.78
<b>STATE</b> Universal Service Charge	2.21

<b>TOTAL TAXES AND FEES</b>	<b>13.75</b>
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<b>TOTAL AMOUNT DUE</b>	<b>\$138.75</b>
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**For Billing Inquiries Please Contact Our Customer Service Center at: 1-877-725-3343**

  
**NEW EDGE**  
Networks  
[www.newedgenetworks.com](http://www.newedgenetworks.com)

## **Exhibit 7**

### **Small and Minority Owned Telecommunications Business Participation Plan**

New Edge Network, Inc. d/b/a New Edge Networks

SMALL AND MINORITY OWNED  
TELECOMMUNICATIONS BUSINESS PARTICIPATION PLAN

**Objective**

New Edge Network, Inc. d/b/a New Edge Networks (“New Edge”) will seek, to the maximum extent feasible, and with due regard for price and quality factors, to purchase goods and services from small and minority telecommunications businesses in connection with the provision of New Edge’s telecommunications services in Tennessee, and to provide, to the maximum extent feasible, technical assistance to such businesses in Tennessee.

**Definitions**

As used in this Plan,

“New Edge” means New Edge Network, Inc. d/b/a New Edge Networks, a Delaware corporation.

“Small Business” means a telecommunications business with annual gross receipts of less than four million dollars, pursuant to T.C.A. § 65-5-212.

“Minority Business” means a telecommunications business that is solely owned, or at least fifty-one percent of the assets or outstanding stock of which is owned by an individual who personally manages and controls the daily operations of such business, and who is impeded from normal entry into the economic mainstream because of race, religion, sex or national origin and such business has annual gross receipts of less than four million dollars, pursuant to T.C.A. § 65-5-212.

**Participation Plan**

New Edge will advise all personnel of the existence of the plan and of the Company’s goals established in the plan.

New Edge will exercise diligence and sensitivity to ensure that opportunities for small and minority owned telecommunications businesses to do business with New Edge are equivalent to those provided to those entities which are not small and/or minority owned.

New Edge will undertake efforts, as described below, to identify eligible small business and minority business providers of goods and services of the type it expects to use in its Tennessee operations. New Edge will invite bids or proposals, or otherwise solicit offers from small and minority-owned telecommunications businesses to furnish goods and services to New Edge in connection with its Tennessee operations. Selection of contractors will be based upon price and quality considerations, with full and equal consideration given to proposals submitted by small businesses and minority businesses.

## **Plan Administration**

The administration of this Plan will be under the direction of:

Lisa Hunt  
Director, Process Management  
New Edge Network, Inc. d/b/a New Edge Networks  
3000 Columbia House Boulevard, Suite 106  
Vancouver, WA 98661  
Tel: (360) 693-9009  
Fax: (360) 693-9997

## **Administrator's Responsibilities**

The Administrator will develop policies and procedures to assure the success of the plan. Specifically, the Administrator's responsibilities pursuant to this plan include the following:

1. To develop and maintain a list of eligible Small and Minority-Owned Telecommunications Businesses.
2. To ensure that Small and Minority-Owned Telecommunications Businesses are included in the solicitation for goods and services that they are capable of providing.
3. To review solicitations to ensure that they do not inhibit and/or restrict competition from Small and Minority-Owned Telecommunications Businesses for contracts for goods and services which they are capable of providing.
4. To maintain New Edge's records of solicitations and contract awards, and any related correspondence.
5. To review and evaluate New Edge's annual performance on Small and Minority-Owned Telecommunications Business contracting.
6. To provide required records and reports and to cooperate in any authorized review or reasonable and appropriate surveys or studies by the Tennessee Regulatory Authority.
7. To ensure that New Edge submits reports, as may be required, for use in connection with subcontracting plans by the Tennessee Regulatory Authority and/or the State of Tennessee.



8. To prepare and submit annual updates to this Plan as required by T.C.A. § 65-5-212.

### **Sources for Identifying and Contacting Qualified Businesses**

Among others, the resources that the Plan Administrator will use to identify qualified businesses will include: the Chambers of Commerce, the Tennessee Department of Economic and Community Development, the U.S. Small Business Administration, and the Office of Minority Business of the U.S. Department of Commerce, the National Minority Supplier Development Council, the National Association of Women Business Owners, and the National Association of Minority Contractors. The Plan Administrator will also identify qualified businesses through participation in trade fairs and industry meetings and through local associations and Minority Supplier Development Councils.

### **Record Maintenance**

If and when New Edge outsources any goods and services in Tennessee in connection with its Tennessee operations, New Edge will maintain records relating to its Plan for the purpose of evidencing the implementation of this policy, for use by New Edge in evaluating the effectiveness of the Plan and in obtaining the goals of the Plan, and for use in updating the Plan on an annual basis with the Tennessee Regulatory Authority, or as otherwise required. In conjunction with this Record Maintenance, New Edge reserves the right to designate documents, reports, surveys and/or studies as "confidential" or "proprietary."

## VERIFICATION

STATE OF WASHINGTON

COUNTY OF Clark

SS:

I, Stacey Waddell, being first duly sworn, do hereby depose and state that:

1. I am Vice President, Carrier Relations, New Edge Network, Inc. d/b/a New Edge Networks (@New Edge@), the Applicant in this proceeding, and am authorized to make this Verification on behalf of New Edge.
2. I have read the foregoing Application and exhibits and know the contents thereof.
3. The facts contained in the Application and exhibits are true and correct to the best of my knowledge, information, and belief.
4. New Edge will operate in compliance with all applicable federal and state laws and all Federal Communication Commission and Tennessee Regulatory Authority rules.

Stacey Waddell

Stacey Waddell  
Vice-President, Carrier Relations  
New Edge Network, Inc. d/b/a New Edge Networks

Subscribed and sworn to me, this 18 day of August, 1999.

Lulame Jefferson  
Notary Public

Notary Public

My Commission expires: 9/9/02

